Indiana. Laws. Statutes, etc.

LAWS

OF THE

STATE OF INDIANA,

PASSED AT THE

THIRTY-SEVENTH SESSION

OF THE

GENERAL ASSEMBLY.

BEGUN ON THE SIXTH DAY OF JANUARY, A. D. 1853.

BY AUTHORITY.

INDIANAPOLIS:
J. P. CHAPMAN, STATE PRINTER.
1853.

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LAWS.

CHAPTER 1.

AN ACT amendatory of the sixth section of an act entitled "An act to authorize and limit allowances by Courts and boards, and drafts upon county treasurers," approved May 27, 1852, and to authorize allowances to poor persons in certain cases.

[APPROVED FEBRUARY 7, 1853.]

In what cases courts may make allowances.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the sixth section of an act entitled "an act to authorize and limit allowances by courts and boards, and drafts upon county treasurers," approved May 27, 1852, which section is as follows, to-wit: "Sec. 6. The circuit courts and courts of common pleas may also make allowance for necessary expenditure incurred under their order, to women, children, or aged or infirm persons summoned as witnesses in State prosecutions," be so amended that the same shall read as follows, to-wit:

The circuit courts and courts of common pleas may also make allowance for necessary expenditure incurred under their order, to women, children, or aged or infirm or poor persons summoned as witnesses in State prosecutions.

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CHAPTER 2.

AN ACT making general appropriations for the years 1853 and 1854.

[APPROVED MARCH 4, 1853.]

Appropriations for 1853.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That for the purpose of meeting the expenses of the State government for the year one thousand eight hundred and fifty-three, the following sums are hereby appropriated, namely: For the General Assembly, thirty-five thousand dollars; for the Judiciary, fifteen thousand dollars; for arrears of salaries of judicial officers, four thousand dollars; for the executive officers, seven thousand dollars; for arrears of salaries of executive officers, three thousand dollars; for prosecuting attorneys, three thousand dollars; for the State prison, three thousand dollars; for printing and binding Revised Statutes, twenty-five thousand dollars; for public printing and binding, ten thousand dollars; for fuel and stationery, including Revised Statutes, ten thousand dollars; for specific appropriations, two thousand dollars; for distribution of laws and journals, eight hundred dollars; for the militia, three hundred dollars; for the State Library, eight hundred dollars; for the State House, fifteen hundred dollars; for Governor's house, three hundred dollars; for Governor's circle, one hundred dollars; for contingent fund, fifteen hundred dollars; for miscellaneous disbursements, seventeen hundred dollars.

For the current year—Benevolent Institutions.

SEC. 2. That the sum of twenty-five thousand dollars be appropriated for the institution for the education of the Blind,—seventeen thousand one hundred and ninety-nine dollars and seventy-two cents of which is to be applied to meet one-half of the obligations of such institution, and eight thousand dollars for the support of the institution for the current year.

SEC. 3. That the sum of thirty thousand and three hundred dollars be appropriated for the institution for the education of the Deaf and Dumb, of which sum fifteen thousand and three hundred dollars shall be applied for the current expenses of the support of the institution, for rough casting the buildings, five thousand dollars, for building shops, two thousand five hundred dollars, and for the payment of one-half of the obligations of such institution, the sum of seven thousand five hundred dollars.

SEC. 4. That the sum of forty-six thousand dollars be appropriated for the support of the Hospital for the Insane, of which sum twenty-eight thousand dollars shall

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be applied for building the south wing of the extension of such building, and eighteen thousand dollars for the support of such institution for the current year.

For the year 1854.

SEC. 5. That for the support of the State government for the year one thousand eight hundred and fifty-four, the following sums are hereby appropriated, namely: For the Judiciary, sixteen thousand dollars; for executive officers, seven thousand dollars; for prosecuting attorneys, three thousand dollars; for State prison, three thousand dollars; for public printing and binding, three thousand dollars; for fuel and stationery, three thousand dollars; for the militia, three hundred dollars; for the State Library, eight hundred dollars; for the State House, five hundred dollars; for Governor's house, five hundred [dollars]; for Governor's circle, one hundred dollars; for contingent fund, fifteen hundred dollars; for miscellaneous disbursements, thirteen hundred dollars.

Benevolent Institutions.

SEC. 6. That the sum of twenty-five thousand dollars be appropriated for the institution for the education of the Blind, seventeen thousand one hundred and ninety-nine dollars and seventy-two cents of which is to be applied to meet one-half of the obligations of such institution, and eight thousand dollars for the support of the institution for the current year.

SEC. 7. That the sum of twenty-two thousand five hundred dollars be appropriated for the institution for the education of the Deaf and Dumb, of which sum fifteen thousand dollars shall be applied for the current expenses of the support of the institution for 1854, and seven thousand five hundred dollars for the payment of the residue of the indebtedness of such institution.

SEC. 8. That the sum of eighteen thousand dollars be appropriated for the Hospital for the Insane, for the support of such institution for the year 1854.

Emergency.

SEC. 9. Whereas, in the opinion of this General Assembly, an emergency exists for the immediate taking effect of this act, it is therefore declared that it shall take effect and be in force from and after its passage and publication in the Indiana Sentinel and Indiana Journal.*

*The foregoing act was published in the Indiana State Sentinel on the 24th day of March, 1853, and in the Indiana State Journal on the 26th day of March, 1853.

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CHAPTER 3.

AN ACT making specific appropriations for the year 1853.

[APPROVED MARCH 5, 1853.]

Secretaries of the Senate and clerks of the House.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the principal and assistant secretaries of the Senate, and the principal and assistant clerks of the House of Representatives, shall each be allowed the sum of four dollars per day for every day they may have served as such during the present session of the General Assembly; and that such assistants as may have been necessarily employed by the aforesaid secretaries and clerks be allowed the sum of four dollars for each day so employed, to be ascertained and certified by the said secretaries of the Senate and clerks of the House of Representatives, respectively.

S. H. Buskirk.

SEC. 2. That Samuel H. Buskirk be allowed the sum of three dollars per day for services as clerk to the committee of Ways and Means, to be ascertained and certified by the chairman of that committee.

Jacob W. Cummins.

SEC. 3. That Jacob W. Cummins be allowed the sum of three dollars per day for services as clerk to the committee of the House on the Judiciary, to be ascertained and certified by the chairman of that committee.

S. S. Lyon.

SEC. 4. That Sidney S. Lyon be allowed the sum of three dollars per day for services as clerk to the Senate committee on the Judiciary, to be ascertained and certified by the chairman of that committee.

J. S. Hester.

SEC. 5. That James S. Hester be allowed a sum not exceeding five dollars per day, for every day he may have been employed in making out notes for, and superintending the arrangement and printing the Revised Statutes of 1852, to be ascertained, allowed and certified by the officers of State, and audited by the Auditor of State.

Door-keepers.

SEC. 6. That the door-keeper of the Senate and the door-keeper of the House of Representatives, be allowed three dollars for each day they may have served as such, to be certified by the presiding officers of the two Houses respectively, and that the assistant door-keepers of the Senate and House of Representatives be each allowed three dollars for every day they may have served as such, to be computed by their principals and certified in the same manner as the services of their principals.

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Indexing House Journal.

SEC. 7. That the principal clerk of the House of Representatives, for superintending the printing and reading proofs of the House journal, and preparing an index for the same, be allowed the sum of eighty dollars.

Indexing Senate Journal.

SEC. 8. That the principal secretary of the Senate, for superintending the printing and reading proofs of the Senate journal, and preparing an index for the same, be allowed the sum of eighty dollars.

Geo. A. Davis.

SEC. 9. That George A. Davis be allowed the sum of one hundred and two dollars and sixty-five cents in full, for his expenses in arresting James S. Davis, a fugitive from justice, under a requisition from the Governor of the State and bringing him from the county of Hannibal, in the State of Missouri, and delivering him into the custody of the sheriff of Greene county.

Thomas Hunsucker.

SEC. 10. That Thomas Hunsucker be allowed the sum of three hundred dollars, the amount of the reward paid by him to M. Cherry and E. A. Darcy for the apprehension of Daniel M. Mabee, who was charged with murder in Jackson county.

George S. Howell.

SEC. 11. That George S. Howell be allowed the sum of five dollars for money expended in conveying the remains of Joseph W. Holliday, member of the Legislature, session 1851–2, to Madison county.

Hannaman & Duzan.

SEC. 12. That Hannaman and Duzan be allowed the sum of fifty cents for gum tragacanth furnished the House.

A. Graydon & Son.

SEC. 13. That A. Graydon and Son be allowed the sum of one dollar and sixty cents for sundries.

Paul Guyser.

SEC. 14. That Paul Guyser be allowed the sum of one hundred and eighty dollars for services rendered in the translation of the first volume of the Revised Statutes of 1852 into the German language.

Julius Boetticher.

SEC. 15. That Julius Boetticher be allowed the sum of one hundred and eighty-five dollars and four cents for five hundred and one copies of the Volks Blatt, furnished the Senate and House of Representatives, session 1853.

Lawrence Kennedy.

SEC. 16. That Lawrence Kennedy be allowed the sum of one hundred and eighty-three dollars for services rendered in the supervision of the Governor's room, the State Library, and the room occupied by the Superintendent of Public Instruction.

James P. Drake.

SEC. 17. That James P. Drake be allowed the sum of six hundred dollars, for three years' services as treasurer of the hospital for the insane, and the asylum for the deaf and dumb.

Salmon A Buell

SEC. 18. That Salmon A. Buell be allowed the sum

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of five dollars for services, in preparing a plan of the Hall of the House of Representatives.

R. L. McOuat. SEC. 19. That R. L. McOuat be allowed the sum of one hundred and thirteen dollars and five cents, for stoves and stove furniture, and putting up same, as per account filed.

J. M. Talbott. SEC. 20. That J. M. Talbott be allowed the sum of seventy-one dollars and sixty-three cents, for stationery furnished the Senate and House of Representatives, as per account filed.

R. N. Tyler. SEC. 21. That Reuben N. Tyler be allowed the sum of twenty-four dollars, for eight days' services, in preparing the Hall of the House of Representatives, at the present session, by order of the State Librarian.

Henry S. Kellogg. SEC. 22. That Henry S. Kellogg be allowed the sum of seventy-six dollars and forty-five cents, for coal grates and stationery furnished for the use of the State House, by order of the State Librarian, as per account filed.

John Lannahan. SEC. 23. That John Lannahan be allowed the sum of eleven dollars and ninety cents, for work done upon State House, by order of the Treasurer of State.

H. A. Fletcher. SEC. 24. That H. A. Fletcher be allowed the sum of two dollars for ribbon furnished for the use of legislature, as per account on file.

S. Merrill. SEC. 25. That S. Merrill be allowed the sum of sixteen dollars and nineteen cents, for stationery furnished for use of House of Representatives, per account on file.

George Wright. SEC. 26. That George Wright be allowed the sum of two dollars and fifty cents, draying ten loads of documents, as per account filed.

Craighead & Browning. SEC. 27. That Craighead & Browning be allowed the sum of five dollars and forty-three cents, for stationery furnished for the use of the House of Representatives, as per account on file.

A. Elkins. SEC. 28. That A. Elkins be allowed the sum of four dollars and seventy-five cents, for cash paid for washing towels.

James Kerlin. SEC. 29. That James Kerlin be allowed the sum of seventy-five cents for ribbon, for the use of the House of Representatives.

J. & J. Bradshaw. SEC. 30. That J. & J. Bradshaw be allowed the sum of eleven dollars and fifty-nine cents, for sundries furnished for the use of the legislature, per account filed.

Weaver & Williams. SEC. 31. That Weaver & Williams be allowed the sum of thirty dollars and eighty cents, for furnishing

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forty-eight locks, and putting on same and repairing desks, per account filed.

Robert W. Dunbar.

SEC. 32. That Robert W. Dunbar be allowed the sum of two hundred and eighty-two dollars and fifty-three cents, the amount which was stolen from the treasurer of Vanderburgh county, by burglars, and which belonged to the State of Indiana.

H. F. West & Co.

SEC. 33. That H. F. West & Co. be allowed the sum of ninety-eight dollars and eighty-eight cents, also the sum of thirty dollars and thirty cents, for stationery furnished for the use of the General Assembly, as per account filed.

Benj. Wolfe.

SEC. 34. That Benjamin Wolfe be allowed the sum of two hundred dollars, for services in selecting land, by appointment of the Governor, under the act of Congress, approved July 12, 1852, for the use of the State University.

Conrad Werley.

SEC. 35. That Conrad Werley be allowed the sum of eighteen dollars, for six days' work rendered during the session of 1851 and 1852, as per account filed.

Thalman & Evans.

SEC. 36. That Thalman and Evans be allowed the sum of three dollars and twenty-six cents, fur sundries furnished for the use of the General Assembly, as per account on file.

Asa F. Chapin, and others.

SEC. 37. That A. F. Chapin, Durham, Tanner, Jones, Laird, John Freeland, H. W. Catlin, G. H. Roberts, G. P. R. Wilson, Richard Slater, Shields, John Edwards, Reynolds and Simpson, the members of the House and Senate committees on the State Prison, be each allowed the sum of ten dollars, for expenses in visiting the State Prison.

Wainwright & Brother.

SEC. 38. That Wainwright and Brother be allowed the sum of forty-four dollars and fifty cents, for stoves furnished for the use of State House, as per account filed.

Liston & Harvey.

SEC. 39. That Liston and Harvey be allowed the sum of one hundred dollars, for services in the case of Harvey Bates vs. The Auditor of Marion county in the circuit and supreme court.

Robert H. Milroy.

SEC. 40. That Robert H. Milroy be allowed the sum of eighty dollars for services as President Judge of the 8th Judicial Circuit, in holding fall terms of the court in said circuit.

James B. Hulse.

SEC. 41. That James B. Hulse be allowed the sum of one hundred dollars, for damages sustained in digging sewer from State Prison through his lands.

James R. Slack.

SEC. 42. That James R. Slack be allowed the sum of sixty dollars, for thirty days services in arresting

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Lewis Read, a fugitive from justice, and bringing him from Cincinnati, in the State of Ohio, to the county of Huntington.

J. J. Barret. SEC. 43. That J. J. Barret be allowed the sum of two dollars for procuring the hauling of Whitcomb's documents to the State House.

J. J. Barret. SEC. 44. That J. J. Barret be allowed the sum of five dollars for cash paid for taking patients to the Insane Hospital.

John H. Thompson. SEC. 45. That John H. Thompson, late Secretary of State, be allowed the sum of fifty cents each for all deeds prepared by him for University, Saline and Michigan road lands, payable out of those respective funds; also, fifty cents each for certifying, sealing and transmitting copies of joint resolution to Senators and Representatives in Congress, and five cents each for affixing the seal of State to bank [blank] bonds, under the State debt arrangement of 1846–7, to be ascertained and certified by the Secretary of State.

John D. Defrees. SEC. 46. That John D. Defrees be allowed the sum of four hundred and fifty-eight dollars and fifty cents for newspapers furnished the legislature.

A. H. Brown. SEC. 47. That Austin H. Brown be allowed the sum of four hundred and fifty-eight dollars and fifty cents for newspapers furnished the legislature.

M. G. C. W. Tanner. SEC. 48. That M. G. C. W. Tanner be allowed not exceeding three dollars per day for services as clerk on the publication of the Revised Statates, to be ascertained and certified by the Governor and Secretary of State.

J. N. Russell. SEC. 49. That J. N. Russell be allowed the sum of four hundred and thirty-seven dollars, for postage on papers and documents sent by the House of Representatives, and the sum of four hundred and twenty-six dollars and sixty-seven cents for postage on papers and documents sent by the Senate up to the 28th day of February, 1853; and that he be allowed such further sum for postage on papers and documents that may be sent from this time to the close of the session, as the President of the Senate and Speaker of the House may certify to be correct.

Elder & Harkness. SEC. 50. That Elder and Harkness be allowed the sum of fifty-one dollars and eighty-four cents, for the Locomotive furnished the members of the House of Representatives.

Morrison & Major. SEC. 51. That Morrison and Major be allowed the sum of one thousand dollars for services rendered the State in the Supreme Court, in the case of Patrick Mc-

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Ginley vs. The State of Indiana; also, one hundred dollars for services rendered the State in the case of Bates against the State of Indiana.

Richard W. Thompson.

SEC. 52. That Richard W. Thompson be allowed the sum of one thousand dollars, for services rendered the State of Indiana, at Washington city, in the selection and confirmation of the swamp lands and the construction given to the swamp land grant, which shall be paid out of the swamp land fund.

Repair of State Treasury.

SEC. 53. That three hundred and fifty dollars is hereby appropriated to repair the State Treasury buildings, and that the same be expended under the direction of the Treasurer of State.

Harry Parry.

SEC. 54. That Harry Perry be allowed the sum of forty dollars for services about the State House privy.

State Board of Agriculture.

SEC. 55. That the sum of two thousand dollars be appropriated for the use of the State Board of Agriculture for the year 1853, to be receipted for by the President of the State Board.

Governor.

SEC. 56. That the Governor of the State be, and is hereby allowed the sum of two hundred and seventy-nine dollars and twenty-five cents, for expenses paid out in visiting the State Prison, State University, sessions of board of trustees of Wabash and Erie canal, and other expenses necessarily connected with his office, which he has paid from the commencement of his office in 1849, to the present time, as per bill of items furnished.

James O'Connell.

SEC. 57. That James O'Connell be allowed sixty dollars, for sawing wood for the use of the State House during the present session of the legislature.

John Lannahan.

SEC. 58. That John Lannahan be allowed sixty dollars for sawing wood, for the use of the State House during this session of the legislature.

B. Pottage.

SEC. 59. That B. Pottage be allowed one dollar and twenty-five cents for a coal bucket for the use of the Senate.

W. H. Buford.

SEC. 60. That William H. Buford, doorkeeper of the Senate, be allowed the sum of two hundred and fifty-three dollars and fifty cents, for cash paid by him for wood for the use of the Senate, fifty cents cash paid for drayage, one dollar and forty cents for making and washing towels; cash paid for pencils, one dollar; cash for twine, thirty cents, as per receipts filed, and the sum of nine dollars for extra services in buying wood and superintending public documents. Further, that he be allowed nine dollars for extra services as doorkeeper for three days after the close of this session.

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W. W. Roberts. SEC. 61. That W. W. Roberts be allowed the sum of twelve dollars and ninety-five cents [for] glass, as per accompanying bill. That the Indianapolis Gas Light Company be allowed the sum of one hundred and twenty-two dollars and thirty-seven cents for Gas furnished the State House.

Gas light company.

C. H. Nays SEC. 62. That Chancey H. Nays be allowed the sum of one hundred and seventeen dollars and fifteen cents for services by him rendered and expenses incurred in arresting Joel Grant and Isaac P. Benjamin, fugitives from justice, upon a requisition of the Governor of this State upon the Governor of Michigan.

W. W. McMahon. SEC. 63. That Wm. W. McMahon, sheriff of Harrison county, be allowed the sum of fifty dollars, expences incurred by him in arresting in the State of Kentucky, and bringing to punishment, a gang of horse thieves.

CHAPTER 4.

AN ACT providing for the compensation of Township Assessors.

[APPROVED FEBRUARY 17, 1853.]

Per diem. Account to be verified by oath. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That township assessors each be allowed for the time that they may necessarily be employed in the performance of their duties, one dollar and fifty cents per day, which allowance shall be paid out of the county treasury. The said assessors shall make out their account in detail, giving the dates of each day which they shall have been employed, which account they shall verify under oath, and the board doing county business, if they shall find such statement to be correct, shall allow the same.

To keep account of the number of days, and present to county board. SEC. 2. Each assessor shall at the end of each week in which he shall have been engaged in the performance of any of the duties required of him by law, enter an account in writing, of the number of days or parts of days he may have been engaged during the week, at some regular meeting of the board doing county business, shall present such original account to said

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board, and shall testify under oath or affirmation to the accuracy of such statement, and shall answer such questions respecting the same as may be put to him by the board.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage and publication in the Daily State Sentinel and Daily State Journal.* Emergency.

*The above act was published in the Daily State Sentinel on the 19th day of February, 1853, and in the Daily State Journal on the 25th day of February, 1853.

CHAPTER 5.

AN ACT giving Common Pleas Courts concurrent jurisdiction with Circuit Courts in cases of complaints for Bastardy and Surety of the Peace.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter courts of common pleas in this State shall have concurrent jurisdiction with circuit courts on all complaints for bastardy and surety of the peace; said courts of common pleas, however, in trying and determining such complaints for bastardy and surety of the peace, shall be governed, in all respects, by the provisions of the law regulating the trial and determination of such causes in the circuit courts of this State. Courts of Common Pleas to have concurrent jurisdiction with Circuit Courts on complaints of Bastardy.

SEC. 2. An appeal shall lie from the decision of the common pleas courts, in cases of bastardy, to the circuit court, by either party, on complying with the provisions of law regulating appeals to the circuit court. Appeal.

SEC. 3. This act to be in force from and after its passage and publication. When act to take effect.

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CHAPTER 6.

AN ACT to amend an act, entitled "An act for the support and management of the Indiana Institute for the education of the Blind," approved June 18, 1852; also, amendatory to an act entitled "An act to provide for the government and support of the Institution for the education of the Deaf and Dumb," approved June 14, 1852.

[APPROVED MARCH 1, 1853.]

WHEREAS, It is deemed essential that there should be uniformity, so far as practicable, in the organization and management of the Benevolent Institutions of the State for the education of the Deaf and Dumb and the Blind: Therefore,

Trustees, their term of office.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the institution for the education of the Deaf and Dumb, and the institution for the education of the Blind, shall each be controlled by six trustees, who shall be elected by joint vote of the General Assembly, each of said trustees serving for the term of four years, or until his successor is elected and qualified, except as provided for in the next section.

General Assembly shall elect.

SEC. 2. Immediately after the passage of this act the General Assembly shall elect a board of six trustees for each of the above named institutions, one-half of whom shall serve for the term of two years, and the other half for the term of four years, to be determined by lot, and ever thereafter at each regular session of the General Assembly one-half of said board shall be elected for the term of four years.

Vacancy, how filled.

SEC. 3. In case of the death or resignation of any trustee aforesaid, before the expiration of his term of service, the Governor shall appoint a successor to such trustee, who shall complete the legal term of his predecessor, unless the General Assembly at its next succeeding session, shall, by joint vote as aforesaid, fill such vacancy.

May not be a trustee in two institutions—officers not eligible.

SEC. 4. No person shall be permitted to hold the office of trustee in the two institutions at the same time, nor shall any resident officer of either institution be eligible for election or appointment as a member of the board of trustees.

Emergency.

SEC. 5. As by the provisions of this act an election for trustees is therein provided at the present session of the General Assembly; it is hereby declared that an emergency exists for the immediate taking effect of this act and the same shall be in force from and after its passage.

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CHAPTER 7.

AN ACT to correct and define more correctly the boundary line between the counties of Warrick and Spencer.

[APPROVED MARCH 1, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the following described boundary shall be, and is hereby declared to be, the boundary line dividing the counties of Warrick and Spencer, viz: Beginning on the Ohio River, at a line dividing sections twenty-five and twenty-six, township seven, range eight west; thence north to Little Pigeon Creek; thence up the creek, with the meanders thereof, to the Poke-patch fork; thence up the last mentioned stream, with the meanders [thereof], to the line dividing townships four and five, south; thence east to the line dividing ranges five and six, west; thence north to the north-east corner of township four, south of range six west. Boundary line defined.

SEC. 2. Any sections of an act entitled "an act dividing the State into counties, defining their boundaries, and defining the jurisdiction of such as border on the Ohio and Wabash rivers," coming in conflict with this, be and the same is hereby repealed. Repeal.

SEC. 3. Whereas, an emergency exists for the immediate taking effect of this act; therefore, be it further enacted, that this act shall take effect and be in force from and after its passage and publication in the State Sentinel and Journal.* Emergency.

*The foregoing act was published in the Indiana State Sentinel on the 4th day of March, 1853, and in the Indiana State Journal on the 12th day of March, 1853.

CHAPTER 8.

AN ACT to amend an act entitled "an act to provide for the erection and repair of Bridges," approved May 22, 1852.

[APPROVED MARCH 1, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section three of an act entitled "an act to provide for the erection and repair of bridges," When tax collected, sealed proposals to be received; contractor to give bond.

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approved May 22, 1852, be and the same is hereby amended so as to read as follows, to-wit: When such tax is so collected, after having given thirty days' notice thereof by posting up notices in three public places of such township, or by publication in a newspaper of such county, such trustees shall receive sealed proposals for the erection of such bridges; but such trustees shall require the contractor to give bond and surety for the due performance of his contract, and shall make such regulations in reference to payments and kind of bridges, as shall to them seem proper.

CHAPTER 9.

AN ACT in relation to the Construction of Bridges over certain Navigable Streams, and prescribing the penalty of a violation of the permission herein set forth.

[APPROVED MARCH 4, 1853.]

When a bridge has been or may be hereafter made across a navigable stream, a draw shall be constructed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever a bridge has been, or may hereafter be constructed across a river in this State, navigable by steam boats it shall be the duty of the owners of said bridge, or the directors of the company having control thereof, to construct a draw upon said bridge of a width not less than five feet larger than the width of the largest steamers that usually navigate such river; and said draw whether constructed to slide or be raised, shall be so constructed as to admit a steam boat to pass through the same without any unnecessary obstruction or detention.

Owners to be liable.

SEC. 2. Said owners or company shall be liable upon a prosecution for a violation of the provisions of this act, to a fine to the State in any sum not exceeding five hundred dollars, and if it appears to the Court on trial that said bridge offers a material obstruction to the navigation of said river and that the interests of the public require its removal it may form a part of the judgment of the Court that the same be abated as a nuisance.

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CHAPTER 10.

AN ACT to amend the fourteenth section of an act, entitled "An act for providing for the incorporation of bridge companies," approved March 9, 1852.

[APPROVED MARCH 2, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section fourteen of an act providing for the incorporation of bridge companies, approved March 9th, 1852, be, and the same is hereby amended to read as follows, to-wit: If any person shall wilfully impair or injure any bridge, such person so offending shall forfeit and pay to the corporation double the cost of repair with damages and costs of suit; or, if any person shall ride or drive any horse, mule or ass over such bridge faster than a walk, he shall forfeit and pay any sum not to exceed five dollars nor less than one dollar, together with the costs of suit, to be recovered before any court of competent jurisdiction.

Penalty for injuring a bridge or driving over it faster than a walk.

CHAPTER 11.

AN ACT in regard to Criminal Prosecutions against the Trustees of the Wabash and Erie Canal.

[APPROVED MARCH 4, 1853.]

WHEREAS, By an act to provide for the funded debt of the State of Indiana, and the completion of the Wabash and Erie Canal to Evansville, approved January 19, 1846, and the act supplementary thereto, approved January 27, 1847, it is provided by said acts, among other things, that it shall be the duty of the Governor, in the name, and under the seal of the State, to execute and deliver to the Trustees of said canal, a deed or patent for the bed of the Wabash and Erie canal, and its extensions, finished and to be finished, including its banks, margins, tow-paths, side-cuts, feeders, basins, right of way, locks, dams, water power and structures, and all the property, right, title, and interest of the State in and to the same, with all its appurtenances, the said trustees to have,

Preamble.

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hold, possess and enjoy the same as fully and absolutely as the State could do, subject to all existing rights and equities against the State, and liabilities growing out of the same; the same to be held, in trust, by said trustees, for the purposes in said acts mentioned, which said deed or patent was executed by the Governor of Indiana on the 31st day of July, 1847, to said Trustees: AND WHEREAS, by said act it is provided, among other things, that said Trustees shall take charge of said canal, and adopt and put in execution such plans and measures as they may deem expedient for the prosecution and completion of said canal to Evansville, with its necessary side-cuts and feeders, and do all acts needful and proper for the completion of said canal to Evansville; and to locate and construct such feeders, feeder-dams, side-cuts and reservoirs as may be necessary to supply said canal with water, in the same manner as the superintendent of the canal, on the part of the State of Indiana, was authorized to do by law, before the passage of the said acts above recited, and providing further, that the word "canal," wherever used in said acts, should be construed to mean and include all such feeders, feeder-dams, side-cuts and reservoirs, the canal to be finished in the same manner as established in the original and late surveys, while the construction of the same was carried on by the State: AND WHEREAS, the dam and lock across the West Fork of White River, and the aqueduct across the East Fork of White River, were provided for by said acts, and formed part of the general plan provided for by the State, and were necessary to be made and constructed, and have been made and constructed by said Trustees, on the plan adopted by the State, and without which the canal could not be supplied with water to secure navigation to Evansville: AND WHEREAS, the State of Indiana, by the twentieth section of the act approved January 19, 1846, having in view any defects that might arise in carrying out the provisions of said act, or any difficulties that might arise in prosecuting said work by the Trustees, from any cause whatever, provided that the same should be a public act, should be liberally construed in all courts of justice, and that the State of Indiana should and would supply by future legislation all such defects found to exist as should enable the Trustees to "carry into full effect the fair and obvious intent and meaning" of said law: AND WHEREAS, since the

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passage of said acts, certain defects in the same have been found to exist, for the want of some provision for the prevention of criminal suits along the lower division of said Wabash and Erie canal, within which said dam and aqueduct have been erected, not for any actual loss occasioned by the same, but by indicting said dam, on the West Fork of White River, as a nuisance: AND WHEREAS, other prosecutions may be instituted in the circuit courts or courts of common pleas, having jurisdiction aforesaid, for the prevention thereof, and in order to do justice, and carry out, in good faith, the contract made and executed by and between the State of Indiana and her bondholders (both parties being represented by the Trustees of the Wabash and Erie canal) and by which the powers, rights, privileges, immunities and responsibilities of said State were transferred to said Trustees, in the construction and completion of said canal, in the same manner as if the State had constructed and completed the same:

Suits to be dismissed.

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That all writs, plaints, pleas, indictments and other proceedings on the criminal side of the court, had and maintained against the Board of Trustees of the Wabash and Erie canal, their agents, contractors and laborers, for the erection, construction and maintaining of the feeder-dam and lock across the West Fork of White River, be and the same are hereby directed to be dismissed in each and every court where the same may have been instituted, and that hereafter no criminal proceeding, by indictment or otherwise, shall be allowed to be instituted in any court of justice of the State, against said Trustees, their agents or contractors for the erection of said dam and lock on the West Fork of White River, and the aqueduct across the East Fork of White River: *Provided*, that nothing herein contained shall be so construed as to prohibit civil suits for damages done by reason of said lock, dam or aqueduct to any individual, as provided by existing laws.

Proviso.

Emergency.

SEC. 2. *Be it further enacted*, That this act is hereby declared in force from and after its passage and publication in the Indiana State Sentinel and Indiana State Journal, an emergency existing by reason of a pending suit, to desire its immediate effect and force as law.

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CHAPTER 12.

AN ACT for the distribution of the Census Reports of 1840 and 1850 to the Counties.

[APPROVED MARCH 4, 1853.]

How distributed —to be preserved.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it is hereby made the duty of the Secretary of State to send to the clerk and auditor of each county of the State when the laws are distributed, one copy each of the census reports of the General Government of 1840 and 1850, and it is hereby made the duty of said clerks and auditors of the counties, to carefully preserve the same.

CHAPTER 13.

AN ACT amendatory of the second section of an act for the incorporation of cities, approved June 18, 1852; and for a more economical method of ascertaining the population of such cities, preparatory to the adoption of the provisions of the act herein mentioned, of June 18, 1852.

[APPROVED MARCH 1, 1853.]

When majority petition, council may order marshal to take the census.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the second section of an act entitled "an act for the incorporation of cities," approved June 18, 1852, which section reads as follows, to-wit: "Whenever one-third of the voters of any incorporated town, so far as the number can be estimated, shall petition the board of trustees thereof to be incorporated as a city, such board, by an order or resolution to that effect entered upon their order-book, shall direct the marshal, by a proper warrant, furnishing him with the necessary forms to take the census of all persons who were residents within the corporate limits of such town at least forty days anterior to the date of such order or resolution," be so amended that the same shall read as follows, to-wit: "Whenever one-third of the voters of any incorporated town, so far as the number can be estimated, shall petition the board of trustees or common council thereof, to be incorporated as a city, such

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board by an order or resolution to that effect entered upon their order-book, shall direct the marshal by a proper warrant furnishing him with the necessary forms to take the census of all persons who were residents within the corporate limits of such town at least forty days anterior to the date of such order or resolution; *provided, however*, that if it shall appear to said board of trustees or common council, by the last census of this State or of the United States, that said town had three thousand or more inhabitants, said board of trustees or common council shall be at liberty to proceed in all respects as though the said census had been taken in the manner provided in said sections second, third, and fourth of said act herein mentioned, to adopt the provisions of the said act herein mentioned. Proviso.

SEC. 2. It is hereby declared that an emergency exists requiring the immediate taking effect of this act and the same is hereby declared to be in force from and after its passage and publication in the State Journal and Sentinel.* Emergency.

* The foregoing act was published in the Indiana State Sentinel on the 17th day of March, 1853; and in the Indiana State Journal on the 19th day of March, 1853.

CHAPTER 14.

AN ACT to amend an act entitled "An act for the incorporation of Cities," approved June 18, 1852.

[APPROVED MARCH 2, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 33 of said act be amended to read as follows: They shall have power to keep open and preserve the course of rivers and streams passing through or bordering upon the corporate limits of any such city; to prevent encroachments or injury to the banks thereof or casting into the same offal, dead animals, logs or rubbish, to regulate ferries across such streams, designate the kind of boats to be used, the time and place of landing, and the rates of ferriage. Powers in relation to rivers and streams passing through or bordering upon their corporate limits.

SEC. 2. That the 12th clause of the 35th section of

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an act for the incorporation of cities, approved June 18, 1852, be amended so as to read as follows:

To preserve peace and good order.

Twelfth. To regulate and restrain, and if deemed necessary, to preserve peace, good order and morality, to prohibit, without a license being first obtained therefor, the use of coaches, hacks, drays and other vehicles for the transportation of passengers, freight, or other articles to or from points within the city for hire or pay; also, all tables, alleys, machines, devices or places of any kind for sports or games kept for hire or pay; also, all inns, taverns, shops or other places used or kept for public entertainment and for the sale of articles to be used in and upon the premises; and also all theatrical and other exhibitions and public shows for which money is demanded and received: *Provided*, that lectures on scientific, historic, benevolent or literary subjects, and the apparatus for the elucidation of the same, and specimens of the fine arts, shall not be deemed within the provisions of this section.

What may be prohibited without license.

Proviso.

Council may add adjoining lots to city.

SEC. 3. That section 81 be amended to read as follows: Whenever there shall be, or shall have heretofore been lots laid off and platted, adjoining such city, and a record of the same is made in the recorder's office in the proper county, the common council may, by a resolution of the board, extend the boundary of such city so as to include such lots; and the lots thus annexed shall thereafter form a part of such city, and be within the jurisdiction of the same. The common council shall immediately thereafter, file a copy of such resolution, together with plat and map of survey, defining the metes and boundaries of such addition in the office of the recorder aforesaid, which plat shall be recorded.

Resolution and plat to be recorded.

Officers to continue in office until the expiration of their term of service.

SEC. 4. That section 84 of said act be amended to read as follows: Officers of any city coming under this act shall remain and continue in their respective offices subject to the provisions of this act, until the expiration of the term for which they were elected, and until their successors are chosen and qualified: *Provided*, that this section shall not extend to any office or officer not recognized by the act to which this is an amendment. All by-laws, ordinances and regulations not inconsistent with the act to which this is an amendment, shall remain and be continued in force until altered or repealed by the common council of such city.

By-laws not inconsistent to continue in force.

Emergency.

SEC. 5. In consequence of an emergency which is hereby declared to exist, this act shall take effect and be in force from and after its passage.

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CHAPTER 15.

AN ACT authorizing Cities to subscribe Stock in Railroad, Plankroad or Turnpike Companies.

[APPROVED MARCH 1, 1853.]

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That any city incorporated under special charter, shall have power to subscribe stock in any railroad, plankroad or turnpike company, on being petitioned so to do, by the resident owners of two-thirds of the real estate within such city. May subscribe stock on petition of resident owners of real estate.

SEC. 2. There being an emergency for the immediate taking effect of this act, the same shall be in force from and after its passage and publication in a newspaper at Rising Sun.* Emergency.

* The foregoing act was published in the Indiana Republican, a newspaper at Rising Sun, on the 12th day of March, 1853.

CHAPTER 16.

AN ACT providing for the colonization of Free Negroes, making appropriations therefor, and establishing a colonization agency.

[APPROVED MARCH 3, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the sum of five thousand dollars per annum, for the years eighteen hundred and fifty-three and eighteen hundred and fifty-four, be appropriated out of the Treasury, for the purpose of colonization; to be expended by the State board of colonization, according to the regulations of the law of 1852; and the proper officer of said board shall report their doings relative to the expenditure of said appropriation, to the next General Assembly. $5000 appropriated. Officers to report.

SEC. 2. That the State board are authorized to commission an agent, or corresponding secretary, to aid said board in the general work of colonization, the salary of which officer shall not exceed six hundred dollars per annum, and said salary shall be paid out of the amount of appropriations made for colonization purposes. Agent, how appointed. Salary.

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Emergency.

SEC. 3. Whereas, the whole enterprise is at a stand, an emergency is hereby declared to exist for the enactment hereby made; wherefore the same shall be in force from and after its passage.

CHAPTER 17.

AN ACT supplemental to an act entitled "an act concerning real property and the alienation thereof," approved May 6th, 1852, and to provide for the sale and conveyance of the interest of an insane wife in the hands [lands] of her husband.

[APPROVED MARCH 4, 1853.]

How interest of insane wife may be sold.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any married woman is of unsound mind, and incapable of joining in a conveyance of real estate, it shall be lawful for her husband to sell and convey absolutely, any lands of which he shall be seized in fee simple or otherwise; and all right, title or interest that would survive to his wife therein: *Provided*, That a judge of a court of record shall declare before the officer taking the acknowledgment of such conveyance, that he believes that said conveyance is for the benefit of such married woman, and that it would be prejudicial to herself and her husband to be prevented from disposing of the lands thus conveyed.

Deed to specify the unsound mind of the woman.

SEC. 2. Such deed of conveyance shall specify that such married woman is of unsound mind, and that it is intended to embrace all her interest or claim in the lands conveyed.

How acknowledged.

SEC. 3. The certificate of acknowledgment of such conveyance shall, in addition to the usual requisites, set forth the name and official title of the judge making the declaration herein above required, together with the substance of such declaration.

Part of purchase money to be paid to trustee—how applied.

SEC. 4. The purchaser shall pay, or secure to some suitable third person as trustee for such insane wife a portion of the purchase money equivalent to the estimated value of her inchoate interest in such real estate, which amount such trustee shall pay to her, upon her becoming of sound mind or to her husband if he survive her; or he may apply the same or any part thereof, for her benefit, in such manner as may be necessary

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for her comfort and maintenance, under the direction of the proper court having probate jurisdiction; and for the proper application of such money the trustee shall enter into a written undertaking with sufficient surety; which written undertaking shall be taken and approved by the judge making the declaration herein above required, and recorded with the deed.

CHAPTER 18.

AN ACT to provide for the conveyance of donation lands adjoining the town of Indianapolis, in cases where the holder of the certificate of purchase therefor is deceased.

[APPROVED MARCH 4, 1853.]

Execution of deeds in case of the death of the purchaser or assignee.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where sale of any portion of the donation lands, adjoining the town of Indianapolis, has been made, or may hereafter be made, by authority of any law of this State, and before the execution of a proper deed of conveyance therefor, the purchaser of such land, or in case the certificate of purchase has been transferred, the assignee of such certificate of purchase dies, the land so sold, if the purchase money shall be fully paid, shall be by the proper officer or authority, conveyed to such deceased purchaser, or assignee in the same manner as if he were living, and the same shall enure to the benefit of the creditors and heirs of such deceased purchaser or assignee, in the same manner as the same would have been enured and descended in case such conveyance had been made to such purchaser or assignee prior to his decease.

Emergency—publication.

SEC. 2. It is hereby declared that an emergency exists which requires that this act shall take effect and be in force from and after its passage and publication in the Indiana State Sentinel and Journal. *

* Published in the Indiana State Sentinel March 17, 1853; and in the Indiana State Journal March 19, 1853.

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CHAPTER 19.

AN ACT to amend section four and section six of an act entitled "an act prescribing the powers and duties of Coroners," approved May 27, 1852.

[APPROVED MARCH 4, 1853.]

When notified of death, shall issue warrant for jury.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section four of an act prescribing the powers and duties of coroners, approved May 27, 1852, be amended to read as follows: Every coroner, as soon as he shall be notified that the dead body of any person supposed to have come to his death by violence or casualty, is within his county, shall make out his warrant, directed to a constable of the township where the dead body is lying, requiring him forthwith to summon a jury of men of the said township, not less than six in all, to appear before such coroner, at the time and place expressed in his warrant, and to inquire, upon view of the body, (naming therein the person, if known, there lying dead,) how and in what manner, and by whom, he came to his death.

Jury, oath of.

SEC. 2. Section six is hereby amended to read as follows: The coroner shall administer to the six jurors who appear the following oath: You do solemnly swear, or affirm, (as the case may be,) that you will diligently inquire and true presentment make how and in what manner and by whom A. B., who here lies dead, came to his death; and that you will deliver to me, the coroner of this county, a true inquest thereof, according to such evidence as shall be laid before you, and according to the best of your knowledge.

Act to govern justices of the peace.

SEC. 3. *Provided, however*, That justices of the peace shall have all the powers, perform all the duties, and be governed in all respects by this and every other act regulating the duties and compensation of coroners in regard to holding inquests.

Emergency—publication.

SEC. 4. Whereas, an emergency exists for the immediate passage of this act, it is hereby declared that this act shall take effect and be in force from and after its passage and publication in the Indiana State Sentinel and Indiana State Journal.*

* Published in the Indiana State Sentinel March 24, 1852; and in the Indiana State Journal March 26, 1852.

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CHAPTER 20.

AN ACT to amend an act entitled "an act to provide for the organization of County Boards, and prescribing some of their powers and duties," approved June 17, 1852.

[APPROVED FEBRUARY 10, 1852.]

Amendment to sec. 24 of former act—allowances, how made—proof required.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section twenty-four of an act entitled "an act to provide for the organization of county boards, and prescribing some of their powers and duties," approved June 17, 1852, be, and the same is hereby amended to read as follows, to-wit: "No allowance shall be made by such commissioners, unless the claimant shall present to them a detailed statement of the items, and dates of his claim, nor until such competent proof thereof is adduced by such claimant as is required in other courts, unless the truth of such claim shall be known to such commissioners, when they may allow it without other proof, upon that fact being entered of record in the minutes of the court."

CHAPTER 21.

AN ACT to authorize the re-location of the seat of justice of the county of Clay, and to authorize the receiving of subscriptions and donations for the erection of the public buildings in said county.

Preamble.

WHEREAS, a large majority of the citizens of Clay county have petitioned this General Assembly, praying for the passage of a law for the appointment of commissioners to re-locate the seat of justice in said county, and for the receiving of donations for the erection of a court house for said county; Therefore,

Commissioners appointed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Isaac W. Denman, of Parke county, William K. Edwards, of Vigo county, Burr McGrew, of Sullivan county, John Johnson, of Owen county, and William D. Allen, of Putnam county, be, and they are hereby appointed commissioners to re-locate the seat of justice of the said county of Clay.

Where to meet—shall relocate.

SEC. 2. The said commissioners shall meet at the house of George Moss, on the second Monday in April,

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1853, or as soon thereafter as is practicable, and shall take an oath faithfully and impartially to discharge their duties as such commissioners, and shall thereupon proceed to re-locate the seat of justice in said county of Clay, at some suitable site, near the geographical centre of said county, taking into consideration the population, the best donations for the erection of the public buildings, and all other questions touching the interest of the county, and the propriety of said removal.

Report.

SEC. 3. After said commissioners shall have decided in favor of a site for the seat of justice of said county, they shall make out a report in writing, in which a majority of them shall concur, and they shall designate therein the place selected for such location, specifying the tract or tracts of land on which the same is located, which report shall be acknowledged by them before some officer of said county, authorized to take the acknowledgment of deeds, and the said report shall be recorded in the recorder's office of said county, and thereupon the proprietor of said land shall cause the same to be surveyed and laid off into lots of convenient size, if the same has not been already done, and shall cause a plat thereof to be recorded in the recorder's office, on which shall be designated the lots, streets, and alleys appropriated to the public use, which designation shall absolutely operate as a dedication of such lots, streets and alleys to the purposes so designated, and the title to such lots as are thus appropriated to the use of said county, shall thereby be absolutely vested in said county, and shall be used, appropriated, granted, sold, or conveyed in such manner as the board of commissioners of said county shall direct.

Subscriptions and donations.

SEC. 4. All subscriptions, promises, and propositions for donations towards the erection of the public buildings of said county, and all such subscriptions, promises, and propositions for donations for the benefit of said county for any purpose contingent upon the location of such county seat, shall be made in writing, and shall be delivered to said commissioners before they proceed to consider the question of said location, and if said commissioners shall locate said county seat at the place proposed in such subscriptions, promises, or propositions, such location shall be taken and held to be an acceptance of such subscriptions, promises, and propositions, and the same shall be valid in law, and may be enforced by said county, by suit by and in the name of the board of commissioners of said county against the subscribers and promisors respectively, their heirs and representatives, and no defect in the form of such subscriptions, promises, or propositions, shall invalidate the same, provided it can

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be shown by the same or otherwise that they were intended as donations for the purposes aforesaid.

Where filed. SEC. 5. The subscriptions, promises, and propositions for donations aforesaid, shall be delivered by said commissioners to the auditor of said county for the use of said county, who shall file the same in his office.

Courts and records. SEC. 6. All courts required by law to be held at the county seat, and all records required by law to be kept at the county seat, shall be held and kept in the town of Bowling Green, in said county, until the necessary public buildings shall be erected and prepared for the reception of said courts and records as contemplated by this act.

Compensation. SEC. 7. The said commissioners shall each receive for his services, the sum of three dollars per day, to be audited and paid out of the county treasury of said county.

Majority of board may act. SEC. 8. In case of the death or refusal to serve of one or more of said commissioners, a majority of said board shall be and they are hereby authorized to act as if the whole board were present.

Emergency. SEC. 9. Whereas, an emergency exists, demanding the immediate taking effect of this act, it is hereby declared that it shall be in force from and after its passage and the filing of a copy of it in the office of the clerk of the circuit court of the county of Clay.

February 22, [1853.] Returned with the Governor's objections. Passed the House of Representatives, the Governor's objections to the contrary notwithstanding.

W. R. BOWES,
Principal Clerk of the House of Representatives.

February 23, [1853.] Returned with the Governor's objections. Passed Senate the Governor's objections to the contrary notwithstanding.

GEO. L. SITES, *Secretary of the Senate.*

CHAPTER 22.

AN ACT to authorize the voters of Switzerland county to determine the location of the county seat of said county, and to fix the same, and providing for the erection of public buildings, should a change of location be made; and matters properly belonging thereto.

Vote to be taken. *Be it enacted by the General Assembly of the State of Indiana:* SECTION 1. That the voters of Switzerland county shall, on the first Monday in June, 1853, determine by vote whether they are in favor of a relocation of the seat of justice of said county, or not, and where the same shall be located.

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Duty of county commissioners —time of election.

SEC. 2. That for the purpose of so determining it shall be the duty of the county commissioners of Switzerland county to meet immediately after this act shall become a law, and make all necessary orders and decrees, causing the inspectors, judges and clerks of elections in the different townships in said county to open a poll for that purpose, at the usual place of holding elections, on the first Monday in June, 1853; and each voter at said election shall place upon his ticket "Removal," or "No Removal," naming the point to which he would prefer that said seat of justice should be removed; and the same shall be noted by the clerks of said election, and returns thereof shall be made to the clerk of the circuit court of said county, in the manner as other election returns are made.

Proceedings in case a majority vote for removal.

SEC. 3. That in the event of there being a majority of all the votes polled at said election for any place other than Vevay, (the present county seat of said county,) then, and in that case, it shall be the duty of said board of county commissioners to order and decree, at their next session thereafter, that the seat of justice of said county be removed to the point or place so designated, within thirty days: *Provided*, that, in case a majority of all the votes cast at said election shall be in favor of removal or relocation, but shall not be cast in favor of any one point, then, and in that case, the board of county commissioners of said county shall order another election to be holden on the first Monday in Aug., 1853, and at such other election the voters of said county shall cast their votes for ["Removal" or] "No Removal," and the point having the highest number of votes, (other than Vevay) at the first election; and if a majority of all the votes polled at said second election shall be in favor of a removal and shall designate the point where they wish said seat of justice to be located, then the county commissioners of said county shall, within ninety days thereafter, order the removal of said county seat (or seat of justice) to the point so designated.

Proviso.

Public buildings.

SEC. 4. That the said board of county commissioners of said county shall, at their next regular session after said determination, cause the necessary plans and specifications for the public buildings to be erected at the point so designated to be made, and cause the auditor of said county to advertise in one or more public newspapers within this State for sealed proposals for erecting a court house, jail, and the necessary county offices, according to said plans and specifications, and

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out of such materials as said board of commissioners shall order and direct; and to appoint one or more suitable and competent persons to direct and superintend the erection of said buildings.

Donations.

SEC. 5. That any promises, offer or proposition made or tendered by any person by way of donation of lands or money, or any other thing of value, by way of inducing any person or persons to vote for any particular point for said seat of justice to be re-located or removed to, such promise, offer or proposition being for the purpose of erecting said public buildings, or to aid in any way the same, or to locate, shall be binding to all intents and purposes, on the person or persons making the same, in case said seat of justice shall be located at the point designated by such promisor or promisors; and it shall be the duty of said board of commissioners to sue for and recover the same in an action in any court of competent jurisdiction.

Estimates and appropriations.

SEC. 6. That in the erection of said public buildings, there shall be made estimates of the amount of work and labor done, and materials furnished, and shall be certified by the superintendents of said building to the county auditor at least once in every two months; and the board of county commissioners shall from time to time make the necessary appropriations to meet the expenses of erecting said public buildings, taking into consideration the donations made which are or may be collected.

Courts, where held—public offices.

SEC. 7. That in case of removal or re-location of the seat of justice of said county, the courts shall continue to be held and the public offices to remain at Vevay, until the necessary public buildings shall be erected, or suitable place obtained for holding courts at said point of removal.

Emergency—publication.

SEC. 8. This act is deemed to be a public act, and shall be liberally construed in all its parts; and there being an emergency existing for the taking effect of this act, it is hereby declared to be in full force and effect from and after its publication in the Ohio Valley Gazette.

The foregoing bill was presented to me on the 3d day of March, 1853, for my approval. The General Assembly, at this session, having passed an act involving the same principle, a special act, for the re-location of the county seat of Clay county, which was returned by me with my objections, and subsequently passed, this bill, therefore, not being approved or returned to the House of Representatives with my objections down to the 7th day of March, 1853, has consequently become a law under the Constitution. JOSEPH A. WRIGHT.

The foregoing act was published in the Ohio Valley Gazette on the 17th day of March, 1853.

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CHAPTER 23.

AN ACT to create the Eleventh Judicial Circuit and to fix the time of holding Circuit Courts therein, and to attach Jasper county to the Ninth Judicial Circuit.

[APPROVED JANUARY 21, 1853.]

Counties composing new Circuit.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Eleventh Judicial Circuit is hereby created, and consists of the counties of Grant, Huntington, Wabash, Miami, Howard, Cass, Carroll and White.

Length of term in counties.

SEC. 2. The continuance of the terms of Court in said Circuit shall be as follows, to-wit: In the counties of Cass and Wabash three weeks each; in the counties of Carroll, Miami, and Grant, two weeks each; in the counties of Huntington, Howard, and White, one week each.

Times of holding Courts.

SEC. 3. The terms of Court in said counties shall commence as follows, to-wit: In the county of Huntington on the second Mondays in February and August in each year. In the county of Wabash on the Monday succeeding the Courts in the county of Huntington; in the county of Miami on the Monday succeeding the Courts in the county of Wabash; in the county of Grant on the Monday succeeding the Courts in the county of Miami; in the county of Cass on the Monday succeeding the Courts in the county of Grant; in the county of Carroll on the Monday succeeding the Courts in the county of Cass; in the county of White on the Monday succeeding the Courts in the county of Carroll; in the county of Howard on the Monday succeeding the Courts in the county of White.

Jasper co. attached to 9th Circuit.

SEC. 4. The county of Jasper is hereby added to the Ninth Judicial Circuit.

When writs made returnable.

SEC. 5. All writs, subpœnas, venires, rules, orders of court, recognizances, publications, and process whatever, which may have issued from said Circuit Courts in said counties since the last session thereof, or which may hereafter issue previous to the commencement of said terms, shall be deemed and taken to be, and are hereby made returnable to the first day of the first term of said Courts, to be holden in virtue of this act.

Emergency.

SEC. 6. It is hereby declared that an emergency exists for the immediate passage of this act, and that the same shall have force and effect from and after the Governor's approval of it.

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CHAPTER 24.

AN ACT to change the time of holding circuit courts in the second judicial circuit.

[APPROVED MARCH 2, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts in the second judicial circuit shall be held as follows, to-wit: Times of holding courts in the several counties.

In the county of Scott, on the third Mondays in February and August; in the county of Jackson, the fourth Mondays in February, and August; in the county of Washington, on the first Mondays in March and September; in the county of Lawrence, on the second Mondays in March and September; in the county of Orange, on the fourth Mondays in March and September; in the county of Harrison, on the first Mondays in April and October; in the county of Floyd, on the second Mondays in April and October; in the county of Clark, on the first Mondays of May and November; in the county of Crawford, on the third Mondays of May and November. The court shall sit in Clark and Lawrence two weeks each, in Floyd, three weeks, and in each of the other counties of the circuit, one week, if the business shall require it.

SEC. 2. If any of the times appointed as aforesaid, in any of the said counties shall interfere with the times now appointed for holding the common pleas court therein, the latter court shall be adjourned to, or held on the Monday next following the term of the circuit court. Common Pleas Court to adjourn when circuit court shall be in session.

SEC. 3. The Secretary of State is directed forthwith to send a copy of this act to the clerk of the circuit court of each county in said circuit; said act to be in force from and after the fourth of July, 1853. Emergency.

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CHAPTER 25.

AN ACT fixing the time of holding the Circuit Courts in the fifth judicial circuit.

[APPROVED MARCH 4, 1853.]

Times of holding courts in the several counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the several circuit courts in the fifth judicial circuit shall hereafter be held as follows, to-wit: In the county of Hancock, on the second Mondays in February and August in each year; in the county of Madison on Monday succeeding the courts in the county of Hancock; in the county of Johnson on Monday succeeding the courts in the county of Madison; in the county of Hendricks on Monday succeeding the courts in the county of Johnson; in the county of Tipton on Monday succeeding the courts in the county of Hendricks; in the county of Hamilton on Monday succeeding the courts in the county of Tipton; in the county of Marion on Monday succeeding the courts in the county of Hamilton. The said courts, if the business thereof require it, shall sit in the counties of Hancock, Madison, Hendricks, Johnson and Hamilton, two weeks each; in Tipton one week, and Marion as long as the business thereof requires.

Length of terms in the several counties.

Repeal.

SEC. 2. All laws or parts of laws coming in conflict with the provisions of this act be and the same are hereby repealed.

CHAPTER 26.

AN ACT to fix the time for holding the Circuit Courts in the Eighth Judicial Circuit.

[APPROVED MARCH 5, 1853.]

me of holding courts in the several counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the several circuit courts of the Eighth Judicial circuit of this State shall be held as follows, to-wit:

In the county of Clinton, on the first Mondays in February and August of each year; in the county of Tippecanoe, on the Mondays succeeding the courts in

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the county of Clinton; in the county of Boone, on the Mondays succeeding the courts in the county of Tippecanoe; in the county of Montgomery, on the Mondays succeeding the courts in the county of Boone; in the county of Parke, on the first Mondays of May and November; in the county of Vermillion on the Mondays succeeding the courts in the county of Parke; in the county of Fountain, on the Mondays succeeding the courts in the county of Vermillion; in the county of Warren, on the Mondays succeeding the courts in the county of Fountain; in the county of Benton on the Mondays succeeding the courts in the county of Warren.

Length of term.

SEC. 2. The said courts, if the business thereof requires it, shall sit in the counties of Boone, Montgomery, Parke, Fountain, Clinton, and Warren, two weeks each; in the county of Tippecanoe, three weeks; and in the counties of Vermillion and Benton, one week each.

When process made returnable.

SEC. 3. All process made returnable to any of the courts of the respective counties aforesaid, at the times heretofore fixed for holding the sessions thereof, shall be and the same are hereby declared and made returnable to the first days of the terms of the said courts respectively, as fixed by this act; and all parties, officers, witnesses and persons are hereby required to take notice of the changes of the time of holding said several courts, as herein made.

Repeal.

SEC. 4. All acts contravening the provisions of this act are hereby repealed.

Emergency.

SEC. 5. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage; and the Secretary of State shall immediately forward a copy thereof to each of the clerks of the said courts respectively.

CHAPTER 27.

AN ACT to fix the time of holding Courts in the ninth judicial circuit and the length of terms.

[APPROVED FEBRUARY 3, 1853.]

Time of holding courts.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit court shall be

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held in the county of Marshall on the third Mondays of February and August in each year; in the county of Fulton on the Mondays succeeding the courts in the county of Marshall; in the county of Pulaski on the Mondays succeeding the courts in the county of Fulton; in the county of Jasper on the Mondays succeeding the courts in the county of Pulaski; in the county of Starke on the Mondays succeeding the courts in the county of Jasper; in the county of Lake on the Mondays succeeding the courts in the county of Starke; in the county of Porter on the Mondays succeeding the courts in the county of Lake; in the county of Laporte on the Mondays succeeding the courts in the county of Porter; in the county of St. Joseph on the Mondays succeeding the courts in the county of Laporte: *Provided, however*, That the first term of said courts, in the year A. D. 1853, in the counties of St. Joseph, Fulton and Pulaski, shall be held as follows, to-wit: In the county of St. Joseph on the twenty-eighth day of February; in the county of Fulton on the second day of May; in the county of Pulaski on the tenth day of May.

Length of term in counties.

SEC. 2. The terms of the courts shall, if the business require it, be three weeks in Laporte county, two weeks in St. Joseph county; and in the counties of Marshall, Fulton, Pulaski, Jasper, Starke, Lake and Porter, one week each.

When process made returnable.

SEC. 3. All process made returnable to any of the courts of the counties aforesaid, at the times heretofore fixed for holding the sessions thereof, shall be and the same is hereby made returnable to the first days of the terms of said courts respectively as fixed by this act.

Emergency—duty of Secretary of State.

SEC. 4. It is hereby declared that there is an emergency for the immediate taking effect of this act. It shall, therefore, be in force from and after its passage, and the Secretary of State is hereby directed to send immediately, printed copies of this act to the clerks of said courts.

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CHAPTER 28.

AN ACT to change the time of holding Circuit Courts in the tenth judicial circuit.

[APPROVED FEBRUARY 21, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts in the tenth judicial circuit, shall be held as follows, to-wit: The courts in the county of Wells shall commence on the first Monday of February and the third Monday of August in each year; in the county of Adams on Monday succeeding the courts in the county of Wells; in the county of Allen on Monday succeeding the courts in the county of Adams; in the county of Whitley on Monday succeeding the courts in the county of Allen; in the county of Kosciusko on Monday succeeding the courts in the county of Whitley; in the county of Elkhart on Monday succeeding the courts in the county of Kosciusko; in the county of Lagrange on Monday succeeding the courts in the county of Elkhart; in the county of Steuben on Monday succeeding the courts in the county of Lagrange; in the county of DeKalb on Monday succeeding the courts in the county of Steuben; in the county of Noble on Monday succeeding the courts in the county of DeKa b. The said courts, if the business thereof so require it, shall sit in the following counties of Adams, Wells, Whitley, Noble, Steuben and DeKalb, one week each; Kosciusko, Elkhart and Lagrange, two weeks each; and in Allen, three weeks each term: *Provided, however*, That the spring term for 1853 of said court shall be held in the following counties as follows: In the county of Allen, on the first Monday in February; in the county of Adams on the fourth Monday in February; in the county of Wells, on the first Monday in March; and in the county of Whitley on the second Monday in March.

Time of holding courts in counties.

Length of term

Proviso.

SEC. 2. All process made returnable to any of the courts of the respective counties aforesaid, at the times heretofore fixed for holding the session thereof, shall be and the same are hereby declared and made returnable to the first days of the terms of said courts respectively, as fixed by this act, and all parties, witnesses, and all persons are hereby respectively required to take notice of the changes of the time of holding said several courts, as herein made.

When process returnable.

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Emergency.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that it shall take effect and be in force from and after its passage.

Repealing clause.

SEC. 4. The act fixing the time of holding circuit courts in the counties of this State, approved June 18, 1852, be and the same is hereby repealed, so far as the same relates to the tenth judicial circuit.

CHAPTER 29.

AN ACT to provide for the postponement of the Marion Circuit Court during a part of the session of the Supreme Court.

[APPROVED MARCH 4, 1853.]

When circuit court to be postponed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That if the Marion circuit court is in session at the time of the commencement of any term of the Supreme court, the circuit court shall adjourn for two weeks from the time the Supreme court commences, if there is any business remaining unfinished in the circuit court, the Marion circuit court shall resume its session at the close of the two weeks and continue in session until the business pending therein is finished. No action shall be held to be discontinued or abated by reason of such adjournment.

Emergency.

SEC. 2. It is declared that an emergency exists in this case, and that this act shall be in force from and after its passage.

CHAPTER 30.

AN ACT to transfer the business pending in the Probate Courts, and the Probate business pending in the Circuit Courts, to the Courts of Common Pleas, to provide for empanneling juries, and to legalize the business heretofore done therein.

[APPROVED JANUARY 14, 1853.]

Probate business transferred to courts of common pleas.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all business pending before

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the probate courts of this State, and all business heretofore transferred from such probate courts to the circuit courts, and all probate business commenced in the circuit courts by virtue of any local law, is hereby transferred to the Courts of Common Pleas of the proper counties; to be by said last named courts conducted in the same manner as if originally commenced therein; and all cases where said Courts of Common Pleas have heretofore assumed the jurisdiction now given them, their acts as to such jurisdiction are legalized.

Jury may be empanneled.

SEC. 2. In all cases to be tried before the Court of Common Pleas, until further provision is made by law, juries may be selected and empanneled by the sheriff under the direction of the Judge whenever a jury is demanded; such jury to consist of twelve house holders or freeholders of the county, or of such less number as the parties may agree upon, and to be paid in like manner with petit jurors of the Circuit Court.

Emergency—publication.

SEC. 3. It is declared that an emergency exists requiring the enactment hereby made, that this act shall be in force from and after its passage and publication in the State Sentinel and State Journal, and that a copy of this act be forthwith forwarded to the Clerk of each county in the State. *

* Published in the Indiana State Sentinel January 15, 1853; and in the Indiana State Journal January 17, 1853.

CHAPTER 31.

AN ACT giving to the Courts of Common Pleas concurrent jurisdiction with Justices of the Peace in actions of forcible entry and detainer, and against tenants holding over.

[APPROVED MARCH 4, 1853.]

Jurisdiction.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the courts of common pleas shall have concurrent jurisdiction with justices of the peace in actions of forcible entry and detainer, and against tenants holding over.

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CHAPTER 32.

AN ACT to change the time of holding the courts of Common Pleas in the district composed of the counties of Vanderburgh and Warrick, and to authorize an extra term of said court in each of said counties.

[APPROVED JANUARY 28, 1853.]

Time of holding courts.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the courts of common pleas in the district composed of the counties of Vanderburgh and Warrick, shall be held as follows, to-wit: The courts in the county of Vanderburgh shall commence on the first Mondays of March, June, September and December, of each year, beginning with the first Monday of March of the present year; and the courts in the county of Warrick shall commence on the third Mondays of March, June, September and December of each year.

Act to embrace the present year.

SEC. 2. The provisions of this act shall embrace the present year and authorize a term of said court in each of said counties in March next.

When process made returnable.

SEC. 3. All process made returnable to either of the courts of common pleas of the respective counties aforesaid, at the terms heretofore fixed for holding the sessions thereof shall be, and the same are hereby declared and made returnable to the first days of the terms of said courts respectively as fixed by this act; and all parties, officers, witnesses, and all persons are hereby respectively required to take notice of the change of the time of holding said courts as herein made.

Emergency—duty of Secretary of State.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act, and therefore this act shall take effect and be in force from and after its passage, and it is hereby made the duty of the Secretary of State to transmit a copy of this act to the clerk of each of said courts respectively, and each of said clerks is hereby required to cause this act to be published without any unnecessary delay in a public newspaper in his county.

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CHAPTER 33.

AN ACT fixing the time of holding the courts of common pleas, and the length of the terms thereof, in the several counties of this State.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the court of common pleas shall sit—

First. In the county of Allen, on the first Mondays in January, April, July and October, and shall sit four weeks at each term, if the business of the court require it. Allen.

Second. In the county of Adams, on the first Mondays of February, May, August and November, and shall sit two weeks, if the business require it. Adams.

Third. In the county of Bartholomew on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it. Bartholomew.

Fourth. In the county of Benton on the first Mondays in February, May, August and November, and shall sit one week at each term, if the business require it. Benton.

Fifth. In the county of Brown, on the Mondays succeeding the courts in the county of Monroe, and shall sit one week at each term, if the business require it. Brown.

Sixth. In the county of Boone on the Mondays succeeding the courts in the county of Montgomery, and shall sit two weeks at each term, if the business require it. Boone.

Seventh. In the county of Blackford on the second Mondays in January, April, July and October, and shall sit one week at each term, if the business require it. Blackford.

Eighth. In the county of Clark on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Clark.

Ninth. In the county of Clay, on the Mondays succeeding the courts in the county of Sullivan, and shall sit two weeks at each term, if the business require it. Clay.

Tenth. In the county of Crawford on the first Mondays in February, May, August and November, and shall sit one week at each term, if the business require it. Crawford.

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Carroll. *Eleventh.* In the county of Carroll on the first Mondays in January, April, July and October, in each year, and shall sit two weeks at each term, if the business require it.

Cass. *Twelfth.* In the county of Cass on the first Mondays of February, May, August and November, and sit two weeks at each term, if the business thereof require it.

Clinton. *Thirteenth.* In the county of Clinton on the third Mondays of January, April, July and October, and shall sit two weeks at each term, if the business require it.

Dearborn. *Fourteenth.* In the county of Dearborn on the first Mondays in March, June, September and December, and shall sit three weeks, if the business require it.

Decatur. *Fifteenth.* In the county of Decatur, on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it.

Daviess. *Sixteenth.* In the county of Daviess, on the first [third] Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Dubois. *Seventeenth.* In the county of Dubois, on the second Mondays succeeding the third Mondays in January, April, July, and October, and shall sit two weeks, if the business require it.

Delaware. *Eighteenth.* In the county of Delaware, on the fourth Mondays in January, April, July, and October, and shall sit two weeks at each term, if the business require it.

DeKalb. *Nineteenth.* In the county of DeKalb, on the first Mondays in January, April, August and October, and shall sit one week at each term if the business require it.

Elkhart. *Twentieth.* In the county of Elkhart, on the first Mondays in February, May, August and November, and shall sit two weeks, if the business require it.

Fayette. *Twenty-first.* In the county of Fayette, on the fourth Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Floyd. *Twenty-second.* In the county of Floyd on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it.

Franklin. *Twenty-third.* In the county of Franklin, on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it.

Fountain. *Twenty-fourth.* In the county of Fountain, on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Fulton. *Twenty-fifth.* In the county of Fulton, on the first

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Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Twenty-sixth. In the county of Gibson, on the third Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Gibson.

Twenty-seventh. In the county of Greene, on the first Mondays in January, April, July and November, and shall sit two weeks at each term, if the business require it. Greene.

Twenty-eighth. In the county of Grant, on the Mondays succeeding the courts in the county of Delaware, in January and July, and on the second Mondays in May and November, and shall sit two weeks at each term, if the business require it. Grant.

Twenty-ninth. In the county of Hamilton, on the first Mondays in February, May, August and November, and shall sit three weeks at each term, if the business require it. Hamilton.

Thirtieth. In the county of Harrison, on the third Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Harrison.

Thirty-first. In the county of Hendricks, on the fourth Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Hendricks.

Thirty-second. In the county of Howard on the fourth Mondays in February, May, August and November, and sit one week at each term if the business require it. Howard.

Thirty-third. In the county of Henry, on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it. Henry.

Thirty-fourth. In the county of Hancock, on the Mondays succeeding the courts in the county of Madison, and shall sit two weeks at each term, if the business require it. Hancock.

Thirty-fifth. In the county of Huntington, on the first Mondays in January, April, July and October, and shall sit one week at each term if the business require it. Huntington.

Thirty-sixth. In the county of Jackson on the third Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Jackson.

Thirty-seventh. In the county of Jasper on the Mondays succeeding the courts in the county of Warren, and shall sit two weeks at each term, if the business require it. Jasper.

Thirty-eighth. In the county of Jefferson on the first Mondays in February, May, August and Novem- Jefferson.

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ber, and shall sit three weeks at each term, if the business require it.

Jennings. *Thirty-ninth.* In the county of Jennings on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Johnson. *Fortieth.* In the county of Johnson on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it.

Jay. *Forty-first.* In the county of Jay on the Mondays succeeding the courts in the county of Randolph, and shall sit one week at each term, if the business require it.

Knox. *Forty-second.* In the county of Knox on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Kosciusko. *Forty-third.* In the county of Kosciusko on the fourth Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Lake. *Forty-fourth.* In the county of Lake on the fifth Mondays succeeding the courts in the county of Laporte, and shall sit one week at each term, if the business require it.

Lawrence. *Forty-fifth.* In the county of Lawrence on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Lagrange. *Forty-sixth.* In the county of Lagrange on the first Mondays succeeding the courts in the county of Elkhart, and shall sit two weeks at each term, if the business require it.

Laporte. *Forty-seventh.* In the county of Laporte on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it.

Madison. *Forty-eighth.* In the county of Madison on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Marion. *Forty-ninth.* In the county of Marion on the first Mondays in January, April, July and October, and shall sit four weeks at each term, if the business require it.

Martin. *Fiftieth.* In the county of Martin on the Mondays succeeding the courts in the county of Pike, and shall sit two weeks at each term, if the business require it.

Monroe. *Fifty-first.* In the county of Monroe on the Mondays succeeding the courts in the county of Morgan, and shall sit two weeks at each term, if the business require it.

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Fifty-second. In the county of Montgomery on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it. Montgomery.

Fifty-third. In the county of Morgan on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it. Morgan.

Fifty-fourth. In the county of Miami on the first Mondays of January, April, July and October, and sit two weeks at each term thereof if the business require it. Miami.

Fifty-fifth. In the county of Marshall on the third Mondays in January, April, July and October, and shall sit one week at each term if the business require it. Marshall.

Fifty-sixth. In the county of Noble on the third Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Noble.

Fifty-seventh. In the county of Orange on the second Mondays in February, May, August and November, and shall sit two weeks at each term, if the business require it. Orange.

Fifty-eighth. In the county of Ohio on the third Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Ohio.

Fifty-ninth. In the county of Owen on the third Mondays in January, April. July and October, and shall sit two weeks at each term, if the business require it. Owen.

Sixtieth. In the county of Parke on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Parke.

Sixty-first. In the county of Pike on the first Mondays in February, May, August and November, and shall sit two weeks at each term, if the business require it. Pike.

Sixty-second. In the county of Perry on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Perry.

Sixty-third. In the county of Posey on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Posey.

Sixty-fourth. In the county of Putnam on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business repuire it. Putnam.

Sixty fifth. In the county of Porter on the fourth Mondays succeeding the courts in Laporte county, and shall sit one week at each term, if the business require it. Porter.

Sixty-sixth. In the county of Pulaski on the third Pulaski.

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Mondays in January, April, July and October, and shall sit one week at each term, if the business require it.

Randolph. *Sixty-seventh.* In the county of Randolph on the fourth Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Ripley. *Sixty-eighth.* In the county of Ripley on the fourth Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Rush. *Sixty-ninth.* In the county of Rush on the fourth Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it.

Scott. *Seventieth.* In the county of Scott on the third Mondays in January, April, July and October, and shall sit one week at each term, if the business require it.

Shelby. *Seventy-first.* In the county of Shelby on the first Mondays in March, June, September and December, and shall sit at each term as long as the business may require.

Spencer. *Seventy-second.* In the county of Spencer on the third Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Starke. *Seventy-third.* In the county of Starke on the fourth Mondays in January, April, July and October, and shall sit one week at each term, if the business require it.

Steuben. *Seventy-fourth.* In the county of Steuben on the second Mondays of January, April, August and October, [and shall sit] one week at each term.

Tipton. *Seventy-fifth.* In the county of Tipton on the first Mondays of March, June, September and December, and sit one week, if business require it.

Switzerland. *Seventy-sixth.* In the county of Switzerland on the first Mondays in January, April, July and October, and shall sit two weeks, if the business require it.

St. Joseph. *Seventy-seventh.* In the county of St. Joseph on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it.

Sullivan. *Seventy-eighth.* In the county of Sullivan on the Mondays succeeding the courts in the county of Owen, and shall sit two weeks at each term, if the business require it.

Tippecanoe. *Seventy-ninth.* In the county of Tippecanoe on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it.

Union. *Eightieth.* In the county of Union on the Mondays

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succeeding the courts in the county of Fayette, and shall sit two weeks at each term, if the business require it.

Eighty-first. In the county of Vanderburgh on the first Mondays in March, June, September and December, and shall sit two weeks at each term, if the business require it. Vanderburgh.

Eighty-second. In the county of Vermillion on the third Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Vermillion.

Eighty-third. In the county of Vigo on the first Mondays in January, April, July and October, and shall sit four weeks at each term, if the business require it. Vigo.

Eighty-fourth. In the county of Wayne on the first Mondays in January, April, July and October, and shall sit four weeks at each term, if the business require it. Wayne.

Eighty-fifth. In the county of Warrick on the third Mondays in March, June, September and October, and shall sit two weeks at each term if the business require it. Warrick.

Eighty-sixth. In the county of Washington on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Washington.

Eighty-seventh. In the county of Warren on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Warren.

Eighty-eighth. In the county of White on the fourth Mondays in January, April, July and October, and shall sit one week at each term, if the business require it. White.

Eighty-ninth. In the county of Whitley on the first Mondays in January, April, July and October, and shall sit two weeks at each term, if the business require it. Whitley.

Ninetieth. In the county of Wells on the Mondays succeeding the courts in the county of Huntington, and shall sit one week at each term, if the business require it. Wells.

Ninety-first. In the county of Wabash on the first Mondays in January, April, July and October, and shall sit three weeks at each term, if the business require it. Wabash.

SEC. 2. If the circuit court of any county shall be in session at the time fixed for the court of common pleas in the same county, such court of common pleas shall sit on the Monday succeeding such circuit court. When circuit shall be in session, time changed.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, therefore Emergency—publication.

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this act shall be in force from and after its passage, and publication in the Indiana State Sentinel and Journal; and it is hereby made the duty of the Secretary of State to forward a copy of the same immediately after its passage to the publishers of said papers. *

* Published in the Indiana State Sentinel March 17, 1853; and in the Indiana State Journal March 19, 1853.

CHAPTER 34.

AN ACT to regulate the taking of Appeals from the court of Common Pleas.

[APPROVED MARCH 4, 1853.]

Repeal of section.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That sections thirteen and twenty of an act entitled "an act to establish courts of common pleas, and defining the jurisdiction and duties of, and providing compensation for the judges thereof," approved May 14, 1852, be and the same is hereby repealed.

How appeals may be taken.

SEC. 2. The twenty-second section of said act is hereby amended to read as follows, to-wit:

Any person aggrieved by any order, sentence, judgment, or denial of any Court of Common Pleas, may at his election, for the purpose of correcting any error therein, take the same to the Circuit Court of the county within and for which such Court of Common Pleas was held, in like manner, and subject to the same laws, rules, and regulations by and under which judgments of the Circuit Court and Court of Common Pleas may be taken to the Supreme Court by appeal, but when any such appeal shall be taken to or brought in the Circuit Court, and the judge of such court shall be disqualified from hearing and determining the same, the clerk of such Circuit Court shall certify the transcript of such cause to the Supreme Court, and such Supreme Court shall determine the same as if such appeal had, in the first instance been taken to, or such writ of error had been originally brought in such supreme court.

Judge prohibited from practicing in certain courts.

SEC. 3. The fortieth section of said act is hereby amended to read as follows, to-wit: The judge of such court of common pleas shall be prohibited from practicing law in any inferior court in this State from which an appeal would lie to such court of common pleas.

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CHAPTER 35.

AN ACT to amend an act providing for the settlement of decedents' estates, prescribing the rights, liabilities and duties of officers connected with the management thereof, and the heirs thereto, and certain forms to be used in such settlement, approved June 17, 1852.

[APPROVED MARCH 4, 1853.]

Letters, when to be issued.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of an act entitled "an act providing for the settlement of decedents' estates, prescribing the rights, liabilities and duties of officers connected with the management thereof, and the heirs thereto, and certain forms to be used in such settlement," approved June 17, 1852, be, and the same is hereby amended to read as follows, to-wit: Whenever any will shall have been duly admitted to probate, before the proper clerk or common pleas court, the clerk of such court shall issue letters testamentary thereon to the person or persons named therein as executors, who are competent by law to serve as such, and who shall appear and qualify; but no letters testamentary shall issue until the expiration of ten days after the existence of the will shall be known. No person shall be deemed competent to serve as an executor who, at the time the will is proved, shall, upon proof before such clerk or court, be shown to be—

Who cannot be executors.

First. Incapable in law of making a contract, except married women.

Second. Under the age of twenty-one years.

Third. Who shall have been convicted of an infamous crime.

Fourth. Who shall be adjudged incompetent by said clerk or court, by reason of improvidence or want of understanding.

To what amount widow may take property.

SEC. 2. The forty-third section of said act is hereby amended to read as follows, to-wit: The widow, at any time before the return of such inventory, may select and take articles therein appraised, not exceeding in value three hundred dollars, for which she shall receipt to such executor or administrator; a statement of the kind and amount of which goods so taken by the widow, shall be returned by such executor or administrator, with, and designated on, such inventory: *Provided*, That, in all cases where the widow shall fail or refuse to select or take all or any part of the articles as in this section provided, she shall be entitled to re-

Proviso.

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ceive the amount in cash, out of the first moneys received by the executor or administrator.

Sale.

SEC. 3. The forty-eighth section of said act is hereby amended to read as follows, to-wit: Such executor or administrator, immediately after filing such inventory and appraisement, shall proceed to sell, at public auction, the property of the deceased: *Provided*, that whenever any portion of the estate of any decedent shall consist of stocks, the same shall not be sold by the executor or administrator of such estate, except by direction of the proper court; and in the distribution of the personal estate of such decedent, such stocks shall be transferred by direction of the court to the heirs or their guardians.

Credit.

SEC. 4. The fiftieth section of said act is hereby amended to read as follows, to-wit: A credit of not less than three, nor more than twelve months shall be given on all sales of personal property, by the executor or administrator, when the amount purchased exceeds three dollars; and notes, with one or more approved sureties, waiving valuation and appraisement laws, shall be taken in all cases of sale by such executor or administrator.

Claims, where filed.

SEC. 5. The sixty-second section of said act is hereby amended to read as follows, to-wit: A succinct statement of the nature and amount of every claim, whether due or not, against the estate of any decedent, except judgments, which are liens upon the decedents' real estate, and mortgages of his real or personal estate, obtained and executed in his lifetime, the expenses of last illness, funeral expenses, and expenses of administration, with the affidavit of the claimant thereto attached, which affidavit may be sworn to before and certified by the executor or administrator of such estate, to the effect that the same is justly due and wholly unpaid, must be filed in the office of the clerk of the proper court of common pleas, within one year from the date of the first appointment of an executor or administrator therein, and notice thereof, or no cost shall be recovered therein against such executor or administratrator; nor shall hereafter any other court have original jurisdiction of any claim, except such liens, against the estate of any decedent; and if such claim be not due, interest thereon shall not be rebated; and after the expiration of one year from such appointment and notice, if such claim be not filed at least ten days before final settlement of the estate, it shall be barred, except

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as hereinafter provided in case of the liabilities of heirs and devisees.

Docket of claims.

SEC. 6. The sixty-fifth section of said act is hereby amended to read as follows, to-wit: The clerk of the proper court shall spread upon the appearance docket of the same, a list of all claims filed against any estate pending therein, which list shall be all the notice necessary to be given of the filing of the same.

Claims, allowance of.

SEC. 7. The sixty-sixth section of said act is hereby amended to read as follows, to-wit: Whenever any claim against the estate of any decedent shall have been filed and placed on the appearance docket of such court, ten days before the first day of the ensuing term thereof, the executor or administrator of such estate shall admit, or refuse to admit, such claim in writing on the margin of such appearance docket opposite such claim. If such claim is not so admitted before the last day of said term, the same shall be transferred to the issue docket of such court, and shall stand for trial at the next term thereof, as other civil actions pending therein: *Provided*, That the court may, in its discretion, require further proof as to any claim, notwithstanding the executor or administrator may have admitted the claim in the manner provided in this section.

Proviso.

Repeal.

SEC. 8. The sixty-seventh, sixty-eighth, one hundred and fifth, one hundred and sixth, and one hundred and seventh, one hundred and eighth, and one hundred and sixty-ninth sections of said act are hereby repealed.

Payment of claims.

SEC. 9. The one hundred and ninth section of said act is hereby amended to read as follows, to-wit: Every executor or administrator shall proceed with diligence to pay the debts and just demands against the deceased, and when the estate is solvent, shall pay the same according to the following order of classes:

Order of payment.

First. Expenses of administration.

Second. Expenses of last sickness, and funeral expenses.

Third. Judgments which are liens upon the decedent's real estate, and mortgages of real and personal property existing in his lifetime.

Fourth. General debts.

Fifth. To legatees.

Sixth. To distributees.

No executor or administrator shall give preference in the payment of any debt, liability, judgment or decree, over other debts of the same class, nor shall a debt due and payable, be entitled to any preference over debts not due, of the same class; nor shall the

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commencement of a suit, nor the recovery of a judgment thereon, against any executor or administrator, entitle such debt to any preference over debts of the same class.

Exhibit—final settlement.

SEC. 10. The one hundred and twelfth section of said act is hereby amended as follows, to-wit: At the first term of the common pleas court, after the end of one year from the first issuing of letters thereon, the executors or administrators of every estate, shall make an exhibit of all his proceedings in the premises, accompanied with proper vouchers, and unless there be claims in favor of such estate uncollected, or claims pending against the same not allowed, the court shall order a final settlement to be entered, and if there be such claims thus pending, the settlement of such estate shall be continued from time to time, as the court may direct.

Advancements.

SEC. 11. The one hundred and twentieth section of said act is hereby amended as follows, to-wit: If it appear to the court that there is at least one-third more of assets in the hands of such executor or administrator than is sufficient to pay all debts and legacies against the estate then known, such court may, in its discretion, allow such portion of such legacy or distributive share, to be advanced, as may be necessary and proper for the suport of the person entitled thereto, upon satisfactory bond being executed to such executor or administrator, with a sufficient surety for the return of such portion with interest, whenever necessary for the payment of debts, legacies or claims, or to equalize the shares and legacies among those entitled thereto.

Payments in case of insolvency.

SEC. 12. The one hundred and twenty-ninth section of said act is hereby amended as follows, to-wit: If such estate be declared insolvent before the expiration of one year from the first issuing of the letters thereon, no claim against it except funeral expenses, expenses of administration, and of last sickness, shall be paid until the expiration of such year; if all the estate of the deceased be converted into money, and there be no claims unallowed, pending against it, the court shall direct a distribution of the money of such estate among the claimants whose claims have been allowed, in the order herein provided, pro rata, among the claimants of each class; but if the property covered by liens, as mentioned in the third class, has been sold subject thereto, that class shall be omitted in such distribution.

Attorney's fees, allowance for.

SEC. 13. The one hundred and forty-ninth section is hereby amended to read as follows, to-wit: Such court may allow to such executor or administrator reasonable

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attorneys' fees, where he employed an attorney in the management of such estate; but in no case shall an attorney's fees be included in the allowance to such executor or administrator for his personal services; and at the end of each year after the first issuing of the letters, such court may allow him for such services during the preceding year, upon his making affidavit that he has not already been allowed therefor.

Causes for which executors or administrators may be sued.

SEC. 14. The one hundred and sixty-second section of said act is hereby amended to read as follows, to-wit: Any executor or administrator may be sued on his bond by any creditor, heir, legatee, surviving or succeeding executor or administrator, or co-executor or co-administrator of the same estate, for any of the following causes, viz:

First. Failure to inventory the property of the decedent, to return inventories, appraisement bills, sale bills, reports and accounts of sale according to law.

Second. Failure to pay money of the estate into court according to law.

Third. Failure to use due diligence in collecting claims due the estate.

Fourth. Want of reasonable care in taking solvent sureties to all obligations, to secure the purchase money of any of the property of the decedent.

Fifth. Embezzling, concealing, or converting to his own use such property.

Sixth. Negligently permitting any property of the decedent to be injured.

Seventh. For committing any waste upon the real estate of the decedent, or knowingly permitting the same to be done, when such real estate is in his possession and control, as such executor or administrator.

Eighth. Failure to render an account of his proceedings when required by the court or the provisions of this act.

Ninth. Non-compliance with any order of the court touching the estate.

Tenth. Any other violation of the duties of his trust.

Who may bring suit—damages.

SEC. 15. The one hundred and sixty-third section of said act is hereby amended to read as follows, to-wit: Such suit may be brought by, and on the relation of any such creditor, heir, legatee, surviving or succeeding executor or administrator, or co-executor or co-administrator, but no costs shall be taxed in such proceeding against the estate, unless it is brought by such surviving or succeeding executor or administrator, or co-executor or co-administrator; and the measure of damages in

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all such suits, shall be the value of the property converted, destroyed, embezzled or concealed, the injury sustained by the estate or any person interested therein, interest on money retained, such exemplary damages as the court or jury trying the case may be willing to give, and ten per centum on the whole amount assessed.

Order book and appearance docket.

SEC. 16. The one hundred and sixty-seventh section of said act is hereby amended to read as follows, to-wit: In addition to an order book, in which the proceedings of the court are entered, such clerk shall procure an appearance docket, in which he shall enter the names of the executor or administrator of every estate unsettled, together with a marginal note of the proceedings in such estate necessary to be had at the term for which such docket is made up; what returns such executor or administrator is required by law or the order of the court to make at such term, and the names of parties to claims, and their attorneys.

Emergency.

SEC. 17. It is hereby declared that an emergency exists, and that this act shall be in force from and after its passage.

CHAPTER 36.

AN ACT to amend section 95 of an act entitled "an act providing for the settlement of decedents' estates, prescribing the rights, liabilities and duties of officers connected with the management thereof, and the heirs thereto, and certain forms to be used in such settlement," approved June 17, 1852.

[APPROVED MARCH 4, 1853.]

Executor out of the State may file authenticated copy of his appointment.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 95 of the act referred to in the title of this act, be amended as follows, to-wit: When any executor shall be appointed without, and there shall be no executor within this State, the testator not having been, at the time of his death, an inhabitant thereof, the executor so appointed may file an authenticated copy of his appointment in the court of common pleas of any county in which there may be real estate of the deceased, after which he may

May sell real estate.

sell such real estate in the same manner, and upon the same terms as in the case of an executor appointed in this State.

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CHAPTER 37.

AN ACT to authorize county Treasurers to sell delinquent lands, in certain cases, to the highest bidder.

[APPROVED MARCH 3, 1853.]

Lands returned delinquent for seven years to be sold to the highest bidder.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the treasurer of any county in which there are lands or town or city lots which have been returned delinquent for the taxes seven consecutive years, and the taxes remain unpaid, shall advertise and sell as other delinquent lands are sold, except that he shall in such advertisement specify that those lands or town lots will be sold to the highest bidder, in fee for cash; and when any such lands are thus sold, the auditor of said county shall give to the purchaser a certificate of purchase, which certificate shall be evidence of the purchase, and shall entitle the holder on presentation of [to] the said auditor of said county, to a deed as in other cases provided by law for making deeds to lands sold for the taxes: *Provided*, that in no case a deed can be made by said auditor, in a less time than two years after the date of such purchase.

No deed to be made in a less time than two years.

Owner may redeem within 2 years.

SEC. 2. Any person or persons claiming to be the owner or owners of such real estate shall have power to redeem such real estate sold as herein provided any time within two years after the same may have been sold, as in other cases provided for the redemption of lands sold for the taxes.

Proceeds applied to the common school fund.

SEC. 3. The proceeds of the sales of such real estate shall be applied to the common school fund of this State, after deducting the expenses and charges of the sale of the same as herein provided.

CHAPTER 38.

AN ACT to amend the eighteenth, twenty-fourth, twenty-fifth and twenty-sixth sections of an act entitled "an act regulating descents and the apportionment of estates," approved May 14th, 1852, and adding a supplemental section to said act.

[APPROVED MARCH 4, 1853.]

Who may inherit when the widow marries a second or subsequent time.

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That section 18 of the act entitled "an act regulating descents and apportionment of

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estates," approved May 14, 1852, shall be amended so as to read as follows: If a widow shall marry a second or any subsequent time holding real estate by virtue of any previous marriage, such widow may not, during such marriage, with or without the assent of her husband, alienate such real estate, and if during such marriage, such widow shall die, such real estate shall go to the children of the husband from whom she inherited such land, if any there be; and if such widow shall survive the husband of such second or subsequent marriage, and die unmarried, such real estate shall descend to the children of the husband from whom she inherited the same; and if such widow shall not marry a second time, such real estate shall, at her death, descend to the children of the husband from whom she inherits the same.

Distribution of personal property.

SEC. 2. Section 24 of said act shall be amended to read as follows: If a man die intestate leaving a widow, and a child or children, not exceeding two, the personal property of such intestate shall be equally divided among the widow and children, the widow taking an equal share, with one child; but if the number of children exceeds two, the widow's share shall not be reduced below one-third of the whole: *Provided*, that if a man marry a second or other subsequent wife, and has by her no children, but has children alive by a previous wife, the land which at his death descends to such wife, shall at her death descend to his children; and if he have a child or children by such second or subsequent wife, then to all of his children in equal shares.

When there are no children, but the widower, or widow.

SEC. 3. The 25th section of said act shall be amended to read as follows: If a husband or wife die intestate, leaving no child, but leaving a father and mother or either of them, then his or her property, real and personal, shall descend, one half to the widow or widower, and one half to the father and mother jointly, or to the survivor of them; and if there be no father nor mother living, then the one-half shall go to the brothers and sisters of the deceased, or their descendants, if any there be, in equal shares: *Provided*, that if the whole amount of property, real and personal, do not exceed one thousand dollars, the whole shall go to such widow or widower.

When the surviving wife or husband may inherit all.

SEC. 4. Section 26 of said act shall be amended to read as follows: If a husband or wife die intestate, leaving no child, and no father or mother, nor brothers

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and sisters, nor their descendants, the whole of his or her property, real or personal, shall go to the survivor.

Personal property of the wife held by descent, devise or gift.

SEC. 5. The personal property of the wife held by her at the time of her marriage, or acquired during coverture by descent, devise or gift, shall remain her own property to the same extent and under the same rules as her real estate so remains, and on the death of the husband before the wife, such personal property shall go to the wife and on the death of the wife before the husband shall be distributed in the same manner as her real estate descends, and is apportioned under the same circumstances.

CHAPTER 39.

AN ACT to amend section first and section twelfth of an act entitled "an act to authorize the construction of Levees and Drains."

[APPROVED FEBRUARY 22, 1853.]

How organized.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section first of an act entitled "an act to authorize the construction of Levees and Drains," approved June 12, 1852, shall be so amended as to read as follows: That any number of persons not less than five, who may be interested in constructing any levee, drain, dam, breakwater, or other structure, or doing any other work necessary to protect or reclaim any lands or town lots subject to overflow by reason of head or back-water, may associate themselves together and adopt and subscribe articles which shall specify the name and objects of the association.

Appraisers, and assessment of damages.

SEC. 2. That section twelfth be amended to read as follows: If the board of directors shall determine to construct any levee, drain, dam, breakwater, or other structure they shall appoint three appraisers not members of the association, nor interested in the proposed work, nor in any lands or town lots to be affected thereby, who shall examine all the lands or town lots liable to be in any way affected by the proposed work, and shall make out a list of the same, and shall assess the amount of benefit or injury to each tract of land or town lot, and shall make out a schedule thereof with their assessments aforesaid, and shall append thereto, their affidavit that

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the same is in all respects a true assessment to the best of their judgment and belief, which shall be filed with the clerk of the board, who shall cause the same to be recorded in the Recorder's office of the county in which the lands or lots lie, and from the time of such recording, said assessment shall be a lien upon said lands or town lots for the amount of the assessment.

Provisions continued in force.

SEC. 3. All the other provisions of said act approved June 12, 1852, shall continue in full force and apply to sections first and twelfth as amended by this act.

Emergency.

SEC. 4. It is hereby declared that an emergency exists for the taking effect of this act and that it shall be in force from and after its passage.

CHAPTER 40.

AN ACT requiring drawbridge companies to keep lights at night.

[APPROVED MARCH 4, 1853.]

Companies required to keep lights.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all drawbridge companies, who have erected or may hereafter erect and maintain a drawbridge across any navigable stream in said State, shall be required, during the season of their navigation, to place at night a light at each side of said draw or pass.

Penalty.

SEC. 2. And in case said corporation shall refuse or neglect so to do, for every such offense they shall be fined in any sum not less than five or more than ten dollars, to be recovered before any court having competent jurisdiction, and to be paid over to the proper officer for school purposes; and said corporation shall also be further liable for damages through their neglect, to the party or parties aggrieved, to be recovered before any court having competent jurisdiction.

This sct to take effect and be in force from and after its passage.

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CHAPTER 41.

AN ACT to provide for the enumeration of all the white male inhabitants over the age of twenty-one years, in the State of Indiana, in the year 1853, and pay the officers for taking the same.

[APPROVED FEBRUARY 24, 1852.]

By whom and at what time enumeration to be taken.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the township assessors of the different counties in this State, shall each carefully ascertain the name of each and every white male inhabitant residing within the bounds of his township, over the age of twenty-one years, in the year 1853, and shall write the names of said white male inhabitants in a book, to be by each of said assessors provided for that purpose, and shall numerically number said names as they are written down by him in said book.

When to be completed.

SEC. 2. The duties of the assessors, as prescribed in the preceding section, shall be performed and completed by the first day of June, in the year 1853, and the books by them provided and containing a complete record of the names of all the white male inhabitants of their several townships over the age of twenty-one years, shall be filed by them with the auditors of their several counties, on or before the first Monday of June, 1853, and certified by them, and each of them to contain a full and complete record of the names of all the white male inhabitants over the age of twenty-one years within their several townships, as ascertained by them.

Record.

Where filed.

Duty of county auditor.

SEC. 3. It shall be the duty of each county auditor of this State, as soon as the assessors shall have made their returns to him, as in this act prescribed, to proceed without delay to make out from the several returns made to him by the assessors of his county, a full and complete list of all the names recorded in said returns, and number the same numerically; which said list shall be by him recorded in a book provided by him for that purpose, and carefully preserved in his office; and when the said list of all the names returned to him shall have been recorded, to forward the said list, by mail, to the Auditor of State, certified by the county auditor to be a full and complete list of all the names returned to him by the several assessors of his county.

Duty of Auditor of State.

SEC. 4. The Auditor of State shall, on or before the first Monday of January, 1854, make out a full and

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complete abstract of the number of names so returned to him by the several county auditors of the State, and carefully file and preserve the same in his office. Said abstract shall contain a statement showing the number of names returned in each county separately, and the whole number returned from the different counties in the State; and the said Auditor of State shall publish the same in two of the papers published at Indianapolis, as soon as convenient after the first Monday of January, 1854, or before that time if convenient so to do, and shall also lay a copy thereof before the General Assembly of the State at its next session.

Emergency—copies to be forwarded.

SEC. 5. And whereas, an emergency exists, requiring this law to take immediate effect, this act shall take effect and be in force from and after its passage; and it shall be the duty of the Auditor of State to immediately forward copies thereof to the clerks of the several counties of this State.

CHAPTER 42.

AN ACT to prohibit the evidence of Indians and persons having one-eighth or more of negro blood in all cases where white persons are parties in interest.

[APPROVED FEBRUARY 14, 1853.]

Negroes and Indians not permitted to testify where a white person is a party.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana:* No Indian, or person having one-eighth or more of negro blood, shall be permitted to testify as a witness in any cause in which any white person is a party in interest.

CHAPTER 43.

AN ACT to authorize and request the Governor to exchange the Revised Statutes, Laws, Documentary Journals, and reports of the Supreme Court of this State with those of other States of the Union.

[APPROVED MARCH 4, 1853.]

Governor may exchange with other States.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Governor is hereby authorized and requested to exchange the Revised Statutes,

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laws hereafter enacted, documentary journals, and reports of the Supreme Courts of this State with those of all other States of the Union.

SEC. 2. All laws and parts of laws contravening the provisions of this act be, and the same are hereby repealed. Repeal.

CHAPTER 44.

AN ACT to amend an act entitled "an act regulating the fees of officers," approved June 16, 1852.

[APPROVED MARCH 2, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the first section of said act be amended to read as follows: That the persons and officers herein mentioned shall be entitled to receive for their services the fees herein allowed.

Clerks' Fees in the Supreme Court.

Fees of clerk of Supreme Court.

Every writ or process and seal	$1 00
Every process or summons not sealed	50
Endorsing on writ of error or summons under writ of error that [it] is to operate as a supersedeas	05
Filing each paper in a case	06
Copy of a record or other paper per sheet of 100 words, or if the whole number of words in such copy be less than 100	10
Discontinuance or retraxit	10
Bringing a particular record into court	25
Entering satisfaction of record	10
Receiving and entering verdict	10
Entering defendant's appearance	05
Entering on docket	15
Entering judgment	20
Swearing each witness, constable or bailiff	05
Making up and entering a complete record after a judgment per sheet of 100 words	12½
Searching the record within 1 year	10
Every year back	05
On confession of error, judgment or default	25
Continuing cause	20

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Every issue joined	25
Entering any principal motion	10
Certificate and seal	50
Every bond	50
Making out advertisement for non-resident defendant	50
Every 100 words contained in any writing required by law to be done by him and for which there is no specific allowance	10
For recording deeds or other writings when required per 100 words	10
Endorsing on supersedeas or writ of error directed [direction] to the clerk of the inferior court	25
Docketing judgment	15
Taking bail for stay of execution	25
Issuing fee bill for fees not his own	50

For services not specifically provided for in this act, such clerk shall be entitled to the same fees as are by law allowed for similar services.

Clerks' fees in the Circuit and Common Pleas Courts.

Clerk's fees in circuit and common pleas courts.

For every writ, summons or other process	50
Entering action	06
Filing each paper	06
Copy of any paper or record when required per sheet of 100 words	12½
Entering every motion	10
Entering every order and reading the same	10
Entering every rule	12½
Entering dismissal of a cause	12½
Bringing a record into court	10
Entering satisfaction of record	15
Receiving and entering a verdict	10
Entering judgment	20
Entering defendant's appearance	06
Every writ of inquiry	12½
Entering on docket	15
Empanneling and swearing each jury	12½
Taxing fees and fee books per 100 words	12½
Administering each oath in court	06
Making complete record per 100 words	10
Searching a record within one year	10
Every year back	05
Entering rule of court and appointing referees	20
Entering every continuance of a cause	20
Every issue joined	25

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Making out notice for non resident defendant	50
For marriage license and recording certificate of marriage	1 00
Recording a certificate of an estray	50
Taking bail for stay of execution	25
Issuing fee bill	50
Filing and recording transcript as a lien on real estate	50
For every one hundred words of record transcribed in a writ of *scire facias* or *venditioni exponas*	12½
Making examination, registering and certifying to each negro or mulatto as required by law, to be paid out of the county treasury, for each,	1 00
Each certificate to a person desirous of borrowing school funds as required by the school law to be paid by such person	25
For each affidavit	25
For each certificate and seal	50

Clerks' Fees in Criminal Proceedings.

For taking a recognizance	40
Every writ or other process	50
Entering defendant's appearance	06
Making up record, per 100 words	12½
Copy of record when required per sheet of 100 words	12½
Every order or rule of court	12½
Filing each paper	06
Entering panel and swearing jury	25
Swearing each witness or bailiff	06
Receiving and entering verdict	12½
Entering defendant's confession	20
Discharging a recognizance	25

For services in criminal cases not specifically provided for, the same fees as are allowed for similar services in civil cases.

Clerks' Fees in relation to Estates and Guardianship.

Clerk's fees in relation to estates and guardianship.

For all copies, per 100 words	10
Administering an oath	06
Filing each paper	06
For each writ required by law	50
For a letter of administration or guardianship and recording the same	1 00
Proving a will and indorsing a certificate thereon,	1 00

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Qualifying administrator, executor or guardian, taking bond and writing certificate	1 00
Proving codicil and indorsing certificate	1 00
Recording inventory or account per 100 words,	15
Giving each notice required by law	50
Entering each order and reading the same	10
Recording will, per 100 words	12½
For examining each settlement or report of an administrator, executor or guardian	50
For each affidavit	25
For entering each motion	10
For entering on docket	12½
For entering continuance	20
For certificate and seal	50
For making up entries and records not herein provided for, each 100 words	12½
For every trial	25

For all services not specifically provided for in this act, the clerk shall be allowed the same fees as are by law allowed for similar services.

Sheriffs' Fees.

Sheriff's fees.

For serving a writ and taking into custody	50
For every mile traveled in going and returning to serve process	06
Taking bail	25
Taking a recognizance and drawing it up in form,	50
Returning every writ	10
Summoning a jury (with mileage as above)	75
Executing a writ of possession	1 00
Calling a jury in each cause	10
For every person committed to jail	50
Discharging every person out of jail	40
Holding an inquisition, drawing up and returning the same	1 50
Serving a summons	30
Attending a prisoner before a judge when surrendered by his bail, and receiving the prisoner into custody	50
Boarding each prisoner, per day	50

Selling property on execution, a commission of five per centum on the first three hundred dollars, and two per centum on any excess above that amount; but when the money is paid to him without sale, one-half commission only shall be allowed.

Taking a valuation of lands	75
Taking a replevin bond	75

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Serving a capias ad satisfaciendum..... 1 00
Levying on property and advertising the same without sale..... 1 00

Mileage as above when no money is made, and no other fee or reward shall be allowed on executions, except for the expense of keeping property.

Making a deed on sale of real estate on execution, 2 00
Serving a writ of attachment..... 50
Returning writ of attachment..... 25

Sheriffs shall not be entitled to any fees for services performed by their bailiffs when such bailiffs are receiving pay by the day from the county at the time such services are rendered.

For postage paid on letters received from, or directed to the clerk of the supreme court enclosing process issued by said court, the amount thereof to be returned as an item of charge.

When the sheriff is provided by the county commissioners with a dwelling room in the building containing the jail, he shall not be allowed exceeding forty cents per day for boarding each prisoner.

Extra allowances of clerks and sheriffs.

SEC. 2. That the second section of said act be amended to read as follows: Clerks and sheriffs shall be entitled to receive such reasonable allowance for extra services as the board of county commissioners may think right and proper, to be paid out of the county treasury.

In criminal cases not provided for, the like fees as for services in civil cases.

For collecting fee bills, six per centum on the amount thereof.

For taking convict to the State Prison, and all expenses incident to the same, per mile, to be paid out of the State treasury..... 25
For each additional convict taken at the same time, per mile..... 10

For taking a prisoner to another county, such fee as the board doing county business, in the county whence the prisoner was taken, may in their discretion allow, out of the funds of said county.

For each commitment and discharge for a prisoner under any city authority..... 2[illegible]

Fees of the Secretary of State.

Fees of Secretary of State.

For recording each bond..... 2 25
For all copies of records, laws and papers, per one hundred words..... 10
For each certificate and seal..... 50

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Such fees to be paid by the persons for whom the services are rendered: *Provided, however*, such secretary shall in no case be entitled to any fee as above provided, except when the services rendered are for a private person, and not for the State or any county, or officer of either, except notaries public.

For issuing commission to a notary public and recording his bond 75

Recorders' Fees.

Recorders' fees.

For recording deeds and mortgages and the acknowledgment thereof 1 00
For certificate not under seal, and acknowledgment of deeds and mortgages 25
For certificate and seal 50
For recording all other instruments and giving certified copies of any record, for each one hundred words 10
For recording town plats, the first one hundred lots or under 2 00
Each additional lot 01

For all services not specifically provided for in this act, the recorder shall be allowed the same fees as are by law allowed for similar services.

County Auditors' Fees.

County auditors' fees.

For all records, copies and other writings, for each one hundred words (counting three figures as one word) 10
Filing each paper 05
Each county order 05
Tax certificate 25
Each record of an agreement 25
Each acknowledgment of a deed, to be paid by the person for whom the service is rendered 25
Assignment of tax and school certificate and recording the same, to be paid by the assignor 25
Administering an oath 05
Each tax deed, to be paid by the person receiving such deed 1 00
Each special constable's bond, oath and registration of same, to be paid by such constable, 1 00
Each certificate and seal, to be paid by the person requesting the same 50
Each mortgage to secure a loan of school fund, to be paid by the mortgagor 50
For each tract or parcel of land sold for taxes .. 10

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Writing any affidavit necessarily connected with the business of his office and swearing the affiant thereto	25
Each merchant's or other license	50
Registering receipt given by the treasurer for money	05
Each bond taken in the discharge of his official duties	30
Each quietus for land redeemed, to be paid by the person redeeming	20
Each quietus for treasurer's receipt	05
Each writ, notice, or process required to be under seal	50
If not under seal	25
Each day engaged in the county board of equalization	1 50

In trials before the board of county commissioners, the auditor shall be entitled to the same fees as are allowed clerks of the circuit court for similar services, when no specific fee is fixed in this act which shall be paid by the county, or other person, as the right of the case may be, as such board or court may order.

County Treasurers' Fees.

County treasurers' fees.

For collecting taxes shall be—

Eight per cent. on the first one thousand dollars.

Seven per cent. on the amount between one and two thousand dollars.

Six per cent. on the amount between two and three thousand dollars.

Five per cent. on the amount between three and four thousand dollars.

Four per cent. on the amount between four and five thousand dollars.

Three per cent. on all sums over five thousand dollars and under fifteen thousand dollars.

On all sums over fifteen thousand dollars two per cent.

Two and a-half per cent. for securing and paying out all the moneys other than tax and school fund.

For every mile travelled in going and returning to make settlements with the Auditor of State and Treasurer of State, and to make deposites of the State revenue under the instructions of such Treasurer and Auditor, eight cents.

For each tract or parcel of land sold for taxes, ten cents.

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County Commissioners' Fees.

County commissioners' fees.

For each day's attendance as member of the county board, or of the board of equalization, each commissioner shall receive	$3 00

County Surveyor's Fees.

County surveyors' fees.

For every corner by him located or perpetuated,	1 00
For every line run in dividing and running up sections or parts of sections, per mile	1 00
When more than four corners are to be perpetuated in the same section, for each additional corner only	50
For going to and returning from a review, per mile	05
Attending court, per day	1 25
Surveying a town lot	1 00
Every additional lot surveyed at one time	25
Running a division line one mile or under	1 00
Surveying an acre of land or under	1 50
Services in locating roads by authority of law, per day	2 50
Copy of plat of land or certificate of survey	25
Making out a complete report of the survey made of any road, including field notes, &c.	50
If such survey exceed five miles	1 00
In all surveys made by authority of the board of county commissioners or township trustees, chain bearers and axmen shall receive per day,	1 00

Prosecuting Attorneys' Fees.

Prosecuting attorneys' fees.

Docket fee in court of common pleas on a plea of guilty	2 00
Docket fee before a justice of the peace	2 50
Docket fee in divorce cases	5 00
Docket fee upon forfeited recognizances, when he prosecutes to final judgment against the defendants	5 00
Docket fee in cases in the circuit court on plea of guilty	2 50
Docket fee in cases in the circuit court on plea of not guilty	5 00
Docket fee in cases in the court of common pleas on plea of not guilty	4 00

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In all other cases not specified, when the prosecuting attorney is required to prosecute or defend, the fee shall be, in the circuit court and in the court of common pleas..... 5 00

Constable's Fees in Civil Cases.

Constables' fees.

For serving a summons, or warrant on each person named therein..... 25
Traveling to serve process or subpœna, or other writ per mile..... 06
When two or more are named in such process, mileage shall be allowed for the distance necessarily traveled.
A copy of the process left at the defendant's residence..... 25
Serving subpœna for each person therein named 20
Returning each writ..... 05
Bail bond..... 25
Serving execution and mileage as above..... 25
Commitment to prison..... 25
Sale of goods when the amount does not exceed six dollars..... 25
On all sums above six dollars, five per centum.
On all moneys collected on execution without sale, half of the above commissions.
Returing execution..... 10
Summoning a jury in any case..... 25
Attending a jury trial before a justice..... 25
Posting up advertisement of sale..... 15

Constables' Fees in Criminal Cases.

For serving a warrant on each person named therein..... 50
Serving subpœna..... 20
Traveling to serve process per mile..... 06
Attending an examination or trial of a person charged with a crime or misdemeanor..... 25
If more than one, an addition for each of..... 10
Commitment of each person..... 25
And for each mile necessarily travelled..... 05
For services not herein enumerated, the same fees as in civil cases.

Fees of Justices of the Peace.

Fees of justices of the peace.

For each summons or capias..... 25
Every examination on a criminal information on oath..... 50

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Swearing each witness	05
Every warrant in a criminal case	25
Every trial on complaint for unlawful detention of lands or tenements	1 00
Issuing every attachment for contempt	25
Taking an acknowledgment of a deed or power of attorney	25
Order for relieving a pauper	25
Order for removing a pauper	50
Certifying description of a boat adrift, or an estray,	25
Warrant of certificate of appraisement	25
Taking and certifying depositions	25
And for each hundred words therein contained more than one hundred	10
For each process required by law, and not herein enumerated	25
For every writing or record not herein provided for, every hundred words	12½
Every trial	25
For certifying copies of all proceedings for each one hundred words	12½
Entering continuance	10
Every bond or recognizance	25
Every venire for summoning jury	25
Each transfer of judgment	10
Issuing execution	25
Subpœna for witnesses, to include all that are called for at one time	25
Administering each oath required by law and not herein enumerated	05
Trial of right of property and judgment	50
Swearing jury	10
Making up docket, for every one hundred words,	12½
Each writ of attachment against property	50
Making return of fines to the court, for each mile necessarily travelled, to be paid by the county	05
Transmitting papers in cases of appeal	25
Writing an affidavit	25

Jurors' Fees.

Jurors' fees.

Every juror shall receive, in the circuit court or court of common pleas, to be paid out of the county treasury, per day	1 25
Every grand juror sworn, for his services as such, to be paid by the county, per day	1 25

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Every such grand or petit juror, for each mile travelled in going to and returning from court, shall receive, to be paid by the county	04
Every juror for attending a trial, per day, before a justice of the peace, to be taxed with the costs of suit	50
Every juror sworn, in each action in the supreme court, to be taxed against the party failing in the suit	1 50
For every mile actually travelled in going to and returning from court	05

Witness Fees in the Supreme and Circuit Courts, and Court of Common Pleas.

Witnesses fees.

To every witness attending in his own county on trial, per day	75
To every witness attending from another county, per day	1 00
To each witness subpœnaed in the county, and detained from another county, each day. ...	1 00
For every mile necessarily traveled in going to and returning from court from his place of residence, each witness shall receive	04

Witnesses' Fees before a Justice.

Attending, per day	50

Witnesses shall claim their fees on the day of trial, before the judgment docket is signed by the justice.

Fees of Notaries Public and Commissioners.

Fees of notaries public.

For each certificate and seal	50
Taking depositions or other writing, for each one hundred words	10
Administering an oath	10
For each protest	50
Each notice thereof	25
When required, for each one hundred words, in recording or copying such protest	10
Taking acknowledgment of deeds, mortgages, powers of attorney, or other written instruments	25

Coroners' Fees.

Coroners' fees.

Empanneling and swearing a jury and witnesses, and making and returning inquisition for the view of each body	5 00

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Township Trustees', Clerks' and Treasurers' Fees.

Fees of township trustees, clerks and treasurers.

For each day's service they shall each be allowed, to be paid out of the township fund..... 1 00

CHAPTER 45.

AN ACT to provide for the punishment of persons guilty of counseling and advising, aiding and abetting, in this State, in the perpetration, or attempt to perpetrate, an offense in another State, which by the laws of this State shall be a felony.

[APPROVED FEBRUARY 10, 1853.]

Aiding and abetting in the perpetration of a felony in another State.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any person who shall counsel and advise or aid and abet, in this State, in the perpetration, or attempt to perpetrate, an offense in another State, which by the laws of this State shall be a felony, shall be deemed guilty of a felony, and upon conviction thereof shall be punished in the same manner, and to the same extent, as accessories before the fact to the commission of such a felony are prosecuted and punished by the criminal laws of this State.

The prosecution of the principal not essential to the conviction of the accessory

SEC. 2. In all cases contemplated in the preceding section, it shall not be essential to the conviction of a person charged with the commission of a crime therein provided against that the principal be prosecuted for the crime charged.

CHAPTER 46.

AN ACT to repeal section six of an act entitled "an act defining felonies and prescribing punishment therefor," approved June 10, 1852.

[APPROVED FEBRUARY 16, 1853.]

Repeal of section.

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That section six of an act entitled "an act defining felonies, and prescribing punishment therefor," approved June 10, 1852, be, and the same is hereby repealed.

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CHAPTER 47.

AN ACT to amend an act entitled "an act to establish and regulate Ferries," approved June 17, 1852.

[APPROVED FEBRUARY 10, 1853.]

Regulations relative to license when a river or creek shall be the boundary line between two counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 2 of an act entitled "an act to establish and regulate ferries," approved June 17, 1852, be, and the same is hereby so amended as to read as follows, to-wit: When any river or creek shall be the boundary between two counties, any person holding lands on either side of said river or creek, who shall desire a public ferry across the same, shall apply to the board of county commissioners for the county in which his lands lie, who are hereby authorized to establish such ferry, from the land of such applicant to the opposite side; and, in such case, a certified copy of the order establishing such ferry shall be transmitted to the auditor of the county on such opposite side, at the expense of such applicant; and thereupon such county may assess a tax for license for such ferry, in a sum not exceeding for both counties, the amount charged for such ferries where one county alone is concerned; half of which tax shall be assessed by each county. Nothing in this act shall be construed to make any person liable for crossing his own property, or that of another, where he does not receive pay for the same.

Person not liable for crossing his own property when no pay is received.

CHAPTER 48.

AN ACT to punish and prevent frauds in the use of false Stamps and Labels.

[APPROVED FEBRUARY 10, 1853.]

Penalty for forging or counterfeiting stamps, labels, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That every person who shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged or counterfeited any representation, likeness, similitude, copy or imitation of the private stamp, wrapper or label, usually affixed by any mechanic or manufacturer, on or in the sale of any goods, wares or merchandize, with intent to deceive or defraud

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the purchaser, or manufacturer of any goods, wares or merchandize whatsoever, upon conviction thereof, shall be punished by imprisonment in the county jail for a term not exceeding six months, or be fined not exceeding one hundred dollars.

Penalty for having in possession false stamps, dies, engravings, &c.

SEC. 2. Every person who shall have in his possession, any die, plate, engraving, or printed label, stamp or wrapper, or any representation, likeness, similitude, copy, or imitation of the private stamp, wrapper, or label usually affixed by any mechanic or manufacturer to, and used by, such mechanic, or manufacturer, on or in the sale of any goods, wares or merchandize, with intent to use or sell the said die, plate, engraving or printed stamp, label or wrapper for the purpose of aiding or assisting in any way whatever in vending any goods, wares or merchandize, in imitation of or intended to resemble and be sold for the goods, wares, and merchandize of such mechanic or manufacturer, shall, upon conviction thereof, be punished by imprisonment in the county jail for a term not exceeding six months, or be fined not exceeding one hundred dollars.

Penalty for vending articles with false stamps and labels annexed thereto.

SEC. 3. Every person who shall vend any goods, wares or merchandize, having thereon any forged or counterfeited stamps, or labels, imitating, resembling or purporting to be the stamps or labels of any mechanic or manufacturer, knowing the same to be forged or counterfeited, and resembling or purporting to be imitations of the stamps or labels of such mechanic or manufacturer without disclosing the fact to the purchaser, shall, upon conviction be deemed guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or be fined not exceeding one hundred dollars.

CHAPTER 49.

AN ACT authorizing guardians, executors and administrators to lay off the real estate of their wards and decedents into town lots, and to dedicate streets, alleys and squares to public use, when so ordered by the proper court.

[APPROVED FEBRUARY 14, 1853.]

Courts ordering sale of lands may authorize guardians to lay off said lands in town lots.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever any lands are ordered by any court to be sold, on the application of

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any guardian, executor or administrator, the court ordering such sale may, in their discretion, authorize such guardian, executor or administrator, previous to such sale, to lay out such lands, or a portion thereof, in town lots, and to make the necessary dedication to public use of streets, alleys and squares therein; but before any sale of such lots shall take place, and before a plat of such lots, streets, alleys and squares shall be recorded in the recorder's office—the same, with a plat thereof, shall be reported to such court for approval or rejection. If confirmed by the court, such plat shall be recorded as other plats of like nature are recorded, and shall have the same validity in law as if made by a legal proprietor of such lands of full age.

Plat to be recorded.

SEC. 2. Whenever it shall be manifestly to the interest of any ward, the court may, under the restrictions provided in the preceding section, authorize the guardian of such ward to lay out any portion of his real estate in the manner, and with the like legal effect provided in the preceding section, though such land be not designed for sale.

Same power granted when lands are not designed for sale.

CHAPTER 50.

AN ACT to authorize foreign guardians to sell real estate of their wards in this State.

[APPROVED FEBRUARY 14, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That when any minor or other person shall be under guardianship without this State, and shall have no guardian in this State, the foreign guardian may file an authenticated copy of his appointment in the office of the clerk of the court of common pleas of the county in which there may be real estate of his ward, after which he may proceed to sell the real estate of his ward in this State as if he were a resident guardian, except as is provided in the next section.

How foreign guardian may sell real estate.

SEC. 2. When it shall appear to the court in this State that such foreign guardian is bound with sufficient sureties in the State or county where he was appointed to account for the proceeds of such sale, and an authen-

Bond of guardian.

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ticated copy of such bond shall be filed in such court, no further bond shall be required; otherwise he shall give bond as in case of sales by a guardian appointed in this State.

Emergency—publication.

SEC. 3. Inasmuch as guardians who are required by the law of ther States to make sale of the lands of their wards in this State without delay, cannot by the regular course of publication and distribution have the benefits of this act for a considerable time to come, an emergency is declared to exist for the immediate taking effect of this act. It is therefore declared that the same shall take effect and be in force from and after its passage and publication in the State Journal and Sentinel.*

* Published in the Indiana State Sentinel Feb. 17, 1853; and in the Indiana State Journal Feb. 19, 1853.

CHAPTER 51.

AN ACT to amend the first, second and third sections of an act entitled "an act for the incorporation of high schools, academies, colleges, universities, theological institutions, and missionary boards," approved May 13, 1852.

[APPROVED FEBRUARY 22, 1853.]

Statement—what to contain and where filed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of the act named in the title of this act be amended to read as follows: That any number of persons desiring to establish a high school, academy, college, university, theological institution, or missionary board, shall first make a statement verified by oath of at least five of the same, declaring the name and purpose of the institution, the manner in which religious bodies or benevolent associations having the control or patronage of the same, shall be connected with and exercise such control over such institution, the mode and proposed amount of endowment—the amount then donated or subscribed, and shall file the same in the office of the clerk of the circuit court of the county in which such institution is proposed to be located, and a duplicate thereof with the Secretary of State, and the relation of such corporation to the religious society having control or patronage of it shall be governed by the rules

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prescribed in such statement, but they may be altered at any time by agreement between such corporation and such society. How rules may be altered.

SEC. 2. That the second section of the act named in the title of this act shall be amended to read as follows, viz: When the statement has been filed as aforesaid, the persons subscribing the same, and their successors, shall be a body politic and corporate, and shall have power to hold and convey real and personal property for the purposes of their association and for endowment. Power to hold real estate.

SEC. 3. That the third section of the act named in the title to this act be amended to read as follows: Donations and contributions may be divided into, and represented by shares of twenty, fifty or one hundred dollars each, as may be agreed upon between the persons forming such association, and specified in the certificate required by the first section of this act, and one share shall constitute the person contributing the same, a member of such association, and at all meetings thereof, every member shall be entitled to one vote for each share held or represented by him; but no member shall have more than seventy-five votes, unless provision be made therefor in the by-laws. Proxies shall always be given in writing. Shares. Proxies.

SEC. 4. Whereas, an emergency exists, this act shall be in force from and after its passage and publication in the Indiana State Sentinel and Journal. * Emergency—publication.

* Published in the Indiana State Sentinel February 26, 1852; and in the Indiana State Journal March 5, 1852.

CHAPTER 52.

AN ACT to amend sections 24 and 31 of an act entitled "an act to provide for the opening, vacation and change of highways," approved June 17th, 1852.

[APPROVED MARCH 3, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 24 of chapter 48 of Revised Statutes of 1852, be amended so as to read as follows: If a majority of the viewers last named report against the public utility of such highway, the Report against highway, the same not to be established; but if in favor of, objector to pay costs.

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same shall not be established, unless the petitioners will open and maintain the same at their own expense; but if they report favorably thereto the objector shall pay the costs of the reviewers, and the highway shall be recorded, and ordered to be opened and kept in repair.

If any person owning land through which the road passes, remonstrate, reviewers to be appointed; damages, if any, to be assessed.

SEC. 2. That section 31 of said chapter be so amended as to read as follows: If before final action on such petition, any person through whose land such highway or change runs shall remonstrate against the same, such trustees shall appoint three disinterested persons to examine the same, to assess the damages, if any, which such person sustains by reason of the running of such highway or change through his lands.

Emergency.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its publication.*

* Published in the Indiana State Sentinel March 17, 1853; and in the Indiana State Journal March 19, 1853.

CHAPTER 53.

AN ACT to enable Illegitimate Children to inherit in certain cases.

[APPROVED FEBRUARY 10, 1853.]

In what cases to inherit.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the real and personal estate of any man dying intestate without heirs resident in any of the United States at the time of his death or legitimate children capable of inheriting without the United States shall descend to and be vested in his illegitimate child or children who are residents of this State or any of the United States, and such illegitimate child or children shall be deemed and taken to be the heir or heirs of such intestate in the same manner and entitled to take by descent or distribution to the same effect and extent as if such child or children had been legitimate: *Provided*, that the intestate shall have acknowledged such child or children as his own during his life-time, and *provided further*, that the testimony of the mother of such child or children shall in no case be sufficient to establish the fact of such acknowledgment.

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CHAPTER 54.

AN ACT to amend an act entitled "an act to enable trustees to receive lands and donations, and convey the same, for the use of schools, churches, religious societies, Masonic and Odd Fellows' Lodges, Sons and Daughters of Temperance, and for the construction of cemeteries, houses of worship, or other buildings therein mentioned," approved June 17, 1852.

[APPROVED FEBRUARY 7, 1853.]

Trustees may make by-laws.

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That section seven of an act entitled "an act to enable trustees to receive lands and donations, and convey the same, for the use of schools, churches, religious societies, Masonic and Odd Fellows' Lodges, Sons and Daughters of Temperance, and for the construction of cemeteries, houses of worship or other buildings therein mentioned," approved June 17, 1852, be and the same is hereby amended to read as follows, to-wit: Such society, or the trustees thereof when organized for that purpose, may establish all necessary by-laws to carry out the objects of its organization.

CHAPTER 55.

AN ACT amendatory of, and supplemental to, an act entitled "an act to incorporate the Indiana Cotton Mills," approved Feb. 15, 1848.

[APPROVED FEBRUARY 24, 1853.]

Limit of capital.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the second section of an act entitled "an act to incorporate the Indiana Cotton Mills," approved February 15, 1848, be, and the same is hereby amended to read as follows: That the capital stock of said corporation shall not exceed the sum of seven hundred and fifty thousand dollars, and that the said corporation may be lawfully seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid—not exceeding the value of fifty thousand dollars, exclusive of buildings and improvements that may be made by the corporation.

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Stockholders.

SEC. 2. The stockholders of said corporation may designate in their by-laws the times and places where the directors shall hold their meetings, whether in or out of this State.

Corporate authority.

SEC. 3. Nothing in this act shall be construed to confer upon said corporation any greater corporate authority or privileges, except such as are by this act expressly conferred; but the said corporation shall hereafter possess the powers and privileges conferred by said original act and this amendment thereto, and shall henceforth be subject to the duties and requisitions in said original act set forth.

CHAPTER 56.

AN ACT to amend an act entitled "an act for the government of the Indiana Hospital for the Insane," approved January 15, 1852.

[APPROVED MARCH 4, 1853.]

Commissioners, how elected, their term of office.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be six commissioners of the Indiana Hospital for the Insane, who shall be elected by joint vote of the General Assembly, who shall serve four years from the day of their election and until their successors are elected and qualified: *Provided, however*, that the three commissioners who have been longest in office, shall hold said office until the first day of January, 1854, and the three commissioners who were last elected shall hold their office until the first day of January, 1856; *Provided*, no person holding the office of Trustee in either of the Benevolent Institutions of the State shall be elected or appointed to the office of commissioner of said Hospital. The commissioners before entering upon the duties of their office shall severally take an oath or affirmation faithfully and impartially to discharge their duties as such commissioners and in all respects conform to the laws in force relating to said Hospital, and in addition to the compensation now allowed by law to commissioners, or [any] commissioner residing out of the county of Marion shall be allowed six cents per mile for each mile of travel going to and coming from the meetings of said commissioners estimated by the most direct route from his place of residence: *Provided*, that three of said commissioners shall

Eligibility.

Oath.

Compensation.

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be elected at the present session of the General Assembly.

SEC. 2. All laws or parts of laws inconsistent with this act be, and the same are hereby repealed. Repeal.

CHAPTER 57.

AN ACT to amend an act entitled "an act for the incorporation of Insurance companies, defining their powers, and prescribing their duties," approved June 17, 1852.

[APPROVED FEBRUARY 10, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section twenty-five of an act entitled "an act for the incorporation of Insurance companies, defining their powers, and prescribing their duties," approved June 17, 1852, be and the same is hereby amended so as to read as follows, to-wit: Auditor to keep a registry of stocks.

The Auditor of State shall keep a registry of stocks, in which he shall note the date, description, to whom and by what company issued, the amount and value thereof. He shall receive for his services one dollar for every power of attorney, the half of one per cent. on all stocks sold by him, and ten cents per hundred words for all copies of records, and all records made in the performance of the duties herein enjoined, which fees shall be paid him by the proper company. Fees of Auditor.

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CHAPTER 58.

AN ACT to amend an act entitled "an act for the incorporation of insurance companies, defining their powers and prescribing their duties," approved June 17, 1852.

[APPROVED FEBRUARY 10, 1853.]

Liability for refusing to collect and apply assessments.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 50 of an act entitled "an act for the incorporation of insurance companies, defining their powers, and prescribing their duties," approved June 17, 1852, be, and the same is hereby amended to read as follows, to-wit: Whenever the treasurer of such corporation shall neglect or refuse to collect any assessment in his hands for that purpose, and to apply the proceeds of the same to discharge the claim for which such assessment was made, he shall, in his private and individual capacity, be liable to the complainant for the aggregate amount of such assessment.

CHAPTER 59.

AN ACT to provide for the selection and empanneling of petit jurors in the Court of Common Pleas, and providing compensation therefor, being supplemental to an act entitled "an act prescribing the manner of empanneling petit jurors, the number and compensation thereof," approved May 20, 1852.

[APPROVED MARCH 1, 1853.]

By whom selected.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That on the fourth Monday before the commencement of any term of the court of common pleas of any county, the treasurer, auditor and recorder of such county, or a majority of them, shall proceed to select a petit jury of twelve reputable male householders or freeholders of said county, to serve at the next ensuing term of said court; and that said officers in selecting, and said clerk in issuing process for said jurors, and that the sheriff in serving the same, shall, in all things, be governed by the rules and regu-

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lations prescribed for the selection of petit jurors in the circuit court, as set forth in the act to which this is supplemental.

SEC. 2. The compensation of said jurors shall be the same, and be paid in like manner as that of petit jurors in the circuit court.

SEC. 3. All laws and parts of laws contravening the provisions of this act are hereby repealed. Repeal.

CHAPTER 60.

AN ACT to authorize justices of the peace to issue subpœnas for witnesses in adjoining counties, and fixing their fees.

[APPROVED MARCH 2, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever either party in a suit pending before a justice of the peace, shall make an affidavit that the testimony of a witness residing in a county adjoining to that in which such suit is pending will be material and necessary to him in the trial of the cause, showing in his affidavit what fact he expects to prove by such witness, it shall be the duty of such justice to continue the cause at the cost of the party making such application, for a period of time not exceeding ten days, and forthwith to issue to the party making the application a subpœna for such witness or witnesses, directed to any constable of the county in which such witness or witnesses is alleged to be resident. When subpœnas may be issued for a witness out of the county.

SEC. 2. Such affidavit may be made at any time at or after the commencement of the suit; and if made and filed on a day prior to that set for the trial, the subpœna issued therefor shall be made returnable on the day set for the trial of the cause. Affidavit; when subpœna made returnable.

SEC. 3. It shall be the duty of any constable of such adjoining county to whom such subpœna shall be delivered forthwith to execute the same and return it on the return day thereof, and the witness or witnesses upon whom it shall be served shall be bound to obey the same in like manner and under like penalties as if it had been issued by a justice of the peace of the county where such witness or witnesses reside, and said witnesses may be attached as in other cases. *Provided*, a witness shall not be obliged to attend before a justice Constable to execute subpœna. Witness may be attached. Proviso.

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of the peace out of the county where he resides, unless his legal fees for travelling to and from the office of such justice of the peace, and one day's attendance are paid or tendered before or at the time of the service of the subpœna: *And provided further*, that at the commencement of each day after the first day, a witness attending a trial out of the county in which he resides, shall be entitled to demand and receive the legal fees for that day in advance, and if not thus paid, he shall not be compelled to attend or remain as a witness.

Fees of witnesses residing out of the county.

SEC. 4. Witnesses resident out of the county in which suit may be pending shall be allowed seventy-five cents for each day necessarily spent in going to, from, and attending such trial.

CHAPTER 61.

AN ACT to repeal an act entitled "an act for the relief of certain land owners within the corporate limits of the city of Rising Sun, in Ohio county," approved January 5, 1849.

[APPROVED FEBRUARY 10, 1853.]

Act repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled "an act for the relief of certain land owners within the corporate limits of the city of Rising Sun, in Ohio county," approved January 5, 1849, be, and the same is hereby repealed: *Provided*, that said city of Rising Sun shall not have power to assess and collect taxes for corporation purposes on any real estate used for farming purposes where there are twenty acres or more thereof in a body and where a part of a tract of twenty acres or more is within the city limits and used as aforesaid, no tax shall be assessed thereon.

Proviso.

Emergency.

SEC. 2. Whereas, in the opinion of this General Assembly, an emergency exists for the immediate taking effect of this act, it shall, therefore, take effect and be in force from and after its passage and publication in the Indiana Sentinel and Indiana Journal.*

* Published in the Indiana State Sentinel February 12, 1853; and in the Indiana State Journal February 14, 1853.

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CHAPTER 62.

AN ACT to provide for the printing, binding and distribution of the laws of the present session of the General Assembly.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That of the laws of the present General Assembly there shall be printed ten thousand copies, which printing, binding, and distribution shall be done in accordance with the provisions of chapter 44 of the local and special laws of 1852, so far as the same are applicable. Ten thousand copies to be printed; how distributed.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, therefore, it shall be in force from and after its passage. Emergency.

CHAPTER 63.

AN ACT to consolidate the laws in relation to Highways, as also the election and duties of Supervisors of the same in pamphlet form.

[APPROVED MARCH 4, 1853.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Secretary of State be, and the same is hereby instructed to cause to be printed, eight thousand copies of the laws that will be in force in this State when the present General Assembly shall arise, in relation to the opening, vacating and change of highways; also, all laws regulating the election and duties of supervisors of public highways, to be consolidated in pamphlet form and distributed with the Revised Statutes of 1852, in the several counties of this State, for the use of supervisors. Duty of Secretary of State. Number of copies to be published. How distributed.

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CHAPTER 64.

AN ACT to provide for the distribution of the Township Law.

[APPROVED MARCH 1, 1853.]

Secretary of State to publish and distribute certain acts.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Secretary of State is hereby required, immediately on the adjournment of the General Assembly, to publish and distribute to the several counties, in proportion to the number of civil townships therein, five thousand copies of the "act for the more uniform mode of doing township business," approved May 6th, 1852, together with such amendments thereto as may be enacted at the present session.

Emergency.

SEC. 2. An emergency is hereby declared to exist for the immediate taking effect of this act, and therefore it shall take effect and be in force from and after its passage.

CHAPTER 65.

AN ACT to give livery stable keepers and others engaged in the feeding of cattle, horses, hogs and other live stock a lien upon the same for their services as such, being supplemental to an act concerning liens of mechanics, merchants and others, approved May 20, 1852.

[APPROVED JANUARY 27, 1853.]

Livery stable keeper to have the right of taking liens in certain cases.

Be it enacted by the General Assembly of the State of Indiana: That the keepers of livery stables and all others engaged in feeding horses, cattle, hogs, and other live stock, shall have a lien upon such property for the feed and care bestowed by them upon the same, and shall have the same rights and remedies as are provided for those persons heretofore having by law such lien in the act to which this is supplemental.

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CHAPTER 66.

AN ACT to regulate the retailing of Spirituous Liquors, and for the suppression of evils arising therefrom.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That no person shall retail spirituous liquors except for sacramental, mechanical, chemical, medicinal, or culinary purposes, without the consent of a majority of the legal voters of the proper township who may cast their votes for license at the April election, nor without filing with the auditor of the proper county his bond, with at least four freehold sureties, to be approved by such auditor, in the penal sum of not less than five hundred nor more than two thousand dollars, proportioned according to the number of inhabitants of the township, conditioned for keeping an orderly house, and for the payment of all fines, penalties or damages that may be incurred under the provisions of this act.

No person to retail liquors unless a majority of the voters of township vote for license.

Bond, where filed.

SEC. 2. The consent required in the preceding section shall be determined by the number of votes cast for or against license; to be expressed on the ticket, and no ticket on which the same is not expressed, shall be counted either way—such consent shall extend for one year from the period of such election, and shall extend to all persons who shall comply with the requirements of the first section respecting bond and security.

No blank ticket to be counted. Consent to sell to extend one year.

SEC. 3. Upon the filing of such bond, the auditor shall issue to the person filing the same, a license to retail spirituous liquors, which shall be good for one year, from the day of the election at which such consent was granted to retail spirituous liquors, and shall, during such year, be presumptive evidence of the right of such person to retail such liquors.

License to be granted.

SEC. 4. The word "retail," in this act, shall be construed to mean the sale or barter, direct or indirect, of any quantity less than one gallon.

The term retail defined.

SEC. 5. Any person offending against the provisions of the preceding sections, shall, for each offense, be fined in any sum not exceeding two hundred dollars.

Penalty.

SEC. 6. A license granted under the provisions of the first section of this act, shall not authorize any person to retail spirituous liquors on Sunday.

Not to retail liquors on Sunday.

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Retailer causing the intoxication of another, shall board him until able to return home. In case of failure, any person may keep intoxicated person, and bring suit against retailer.

SEC. 7. Any person who shall, by the retailing of spirituous liquor, cause the intoxication of any person, shall board, keep, and take care of such person, until he shall be able, without assistance, safely to return to his home; and on failure to do so, it shall be lawful for any other person to do so, or cause the same to be done, which person shall have an action against such retailer for reasonable compensation for such service, and fifty per cent. damage thereon.

No charge for license.

SEC. 8. No municipal corporation, or board of county commissioners, shall exact or receive from any person any money under the name of license, or otherwise, for the privilege of retailing spirituous liquors.

When to be declared nuisances; penalty.

SEC. 9. All places wherein spirituous liquors are retailed, if kept in a disorderly manner, shall be deemed common nuisances. And the keeper of any such nuisance, maintained to the annoyance, disturbance or injury of the neighborhood, shall be fined in any sum not less than twenty-five, nor more than one hundred dollars.

Who may bring suits.

SEC. 10. Any wife, child, parent, guardian, employer or other person, who shall be injured in person or property, or means of support, by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have right of action in his or her own name, against any person and his sureties on the bond aforesaid, who shall by retailing spirituous liquor, have caused the intoxication of such person, for all damages sustained and for exemplary damages.

What shall bar recovery.

SEC. 11. But if it shall be made to appear in any such action, that the intoxicated person through whom damages was sustained, was procured by any other person to do such damage for the purpose of enabling suit to be brought for damage against any retailer, or that such intoxicated person committed any trespass or other unlawful act for such purpose, it shall bar recovery against such retailer.

Rights of married women.

SEC. 12. For all purposes under this act, whether to institute or prosecute the suit, to control the recovery or otherwise, a married woman shall have the same rights as if she were single.

Damages recovered by a minor, to whom paid.

SEC. 13. Damages recovered by a minor under this act shall be paid at the option of the court either to such minor, or to his parents, or to any guardian or next friend, recognized or appointed by the court as such.

Recovery to be evidence against sureties.

SEC. 14. A recovery against a retailer shall be conclusive evidence against his sureties in an action upon

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the bond hereinbefore provided for, both as to the right of action, and as to the amount of damages.

Provisions to apply to licensed persons.

SEC. 15. The provisions of this act in regard to disorderly houses, and their punishment as nuisances, and penalties against the keepers thereof, shall apply to persons to whom licenses to retail spirituous liquors shall have been legally granted, during the term for which they shall have been granted.

Contracts made by intoxicated persons may be voidable.

SEC. 16. All contracts made for the performance of any obligation, or for the sale or exchange of any property, real or personal, by any person who at the time of such contract is in a state of intoxication, rendering him incapable of making a contract, shall be voidable at the option of such intoxicated person.

Not to be sold without license in less quantities than a gallon.

SEC. 17. All places or houses wherein spirituous liquors shall be sold or bartered, directly or indirectly, without license, in less quantity than one gallon, or suffered or allowed to be drunk in or about such place, house, out house, yard, or appurtenance thereto, be and the same are hereby declared to be common and public nuisances, and all persons keeping and maintaining such nuisances as aforesaid, shall, upon conviction thereof, be fined in any amount not less than ten dollars nor more than one hundred dollars.

Nuisance.

Duty of prosecuting and district attorneys.

SEC. 18. It shall be the duty of the proper prosecuting or district attorney, when informed of the existence of any such nuisance as defined and designated by this act, immediately to institute legal proceedings against any person or persons keeping and maintaining such nuisance, and on his failure to commence and faithfully prosecute such nuisance, he shall be fined in any sum not less than ten dollars, nor exceeding twenty-five dollars, by any court having competent jurisdiction.

Repeal.

SEC. 19. All laws on the subject of retailing intoxicating or spirituous liquors heretofore enacted are hereby repealed—but all offenses against such laws shall be punished as if such laws had not been repealed.

Emergency—publication.

SEC. 20. It is declared that an emergency exists requiring the enactment hereby made that this act shall be in force from and after its passage and publication in the Indiana Journal and Indiana State Sentinel.*

*Published in the Indiana State Sentinel March 11, 1853, and in the Indiana State Journal March 19, 1853.

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CHAPTER 67.

AN ACT to amend the thirty-seventh section of an act entitled "an act defining misdemeanors, and prescribing punishment therefor," approved June 14, 1852.

[APPROVED FEBRUARY 24, 1853.]

Shall not sell liquors, &c., within two miles of any religious meeting.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the thirty-seventh section of the act named in the title of this act be amended so as to read as follows: If any person shall erect, bring, keep, continue or maintain any booth, tent, wagon, huckster shop or other place for the sale of intoxicating liquors, cider, beer, or other drinks, or for the sale of any other article whatever; or shall sell or give away any intoxicating liquors, or shall sell any cider, beer or other drink, or any other article whatever, within two miles of any collection of any inhabitants of this State, met together for worship; or who shall in any way interrupt, molest or disturb any such religious meeting, or any person present thereat, or any person going to or returning from such meeting, or who shall molest or disturb any meeting of the inhabitants of this State for any lawful purpose; shall be fined not more than fifty dollars, nor less than five dollars.

Shall not molest or disturb.

Construction not to affect certain cases.

SEC. 2. The preceding section shall not be construed to include such persons as may carry on their ordinary and regular business at their regular places of transacting the same; nor to such persons as may have the permission of those having charge of any such meeting to establish suitable places for the purpose of furnishing food for those attending the same, their horses and cattle.

CHAPTER 68.

AN ACT to amend section one of an act entitled "an act for the incorporation of manufacturing and mining companies, and companies for mechanical, chemical and building purposes," approved May 20, 1852.

[APPROVED MARCH 4, 1853.]

Companies may be formed for building a hotel, or for manufacturing, mining, mechanical or chemical purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section one of an act entitled "an act for the incorporation of manufacturing and mining companies, and companies for mechanical, chemical and building purposes," approved May 20, 1852, be

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amended to read as follows: That whenever three or more persons may desire to form a company for the purpose of building a hotel, and carrying on the business of the same, or for the purpose of carrying on any kind of manufacturing, mining, mechanical or chemical business, they shall make, sign, and acknowledge before some officer capable to take the acknowledgment of deeds, a certificate in writing which shall state the corporate name adopted by the company, the objects of its formation, the amount of capital stock, the term of its existence not however, to exceed fifty years, the number of directors and their names, who shall manage the affairs of such company for the first year, and the name of the town and county in which its operations are to be carried on, and file the same in the office of the recorder of such county, which shall be placed upon record, and a duplicate thereof in the office of the Secretary of State.

CHAPTER 69.

AN ACT to amend an act entitled "an act to incorporate the Cannelton Steam Mill and Manufacturing Company," approved February 16th, 1848; changed to the name of the Troy Manufacturing Company, by an act approved January 15th, 1849, to enable said company to increase its capital stock to two hundred thousand dollars, and to hold real estate to the amount of fifty thousand dollars, and to manufacture cotton.

[APPROVED MARCH 2, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section two of the original act approved February 16, 1848, be, and the same is hereby amended to read as follows, to-wit: The capital stock of said corporation shall not exceed two hundred thousand dollars, in shares of one hundred dollars each, and the said corporation shall have the right to hold and possess such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding in value fifty thousand dollars, exclusive of the buildings and improvements erected thereon by said corporation: *Provided*, that said real estate, so held and possessed, shall all lie in the county of Perry, in this State. Limit of capital

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Authorized to mine or sell coal.

SEC. 2. *And be it further enacted*, That section two of the act amending the act incorporating the Cannelton steam mill and manufacturing company, and changing the name of said company to the Troy manufacturing company, approved January 15, 1849, be, and the same is hereby amended to read as follows, to-wit: That said company are hereby authorized to mine or dig and sell coal, on any lands which they may now own, or may hereafter purchase, in the county of Perry, in this State; also, to manufacture cotton.

CHAPTER 70.

AN ACT to authorize judges of the circuit courts and courts of common pleas to appoint Master Commissioners, and defining the duties and fixing the compensation of such master commissioners.

[APPROVED MARCH 2, 1853.]

Master commissioners may be appointed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana:* That the judges of the circuit courts and the courts of common pleas, in their respective circuits and districts, may appoint as many master commissioners as such judges may deem necessary, who shall receive the appointment in writing from the judge making the same, and shall continue in office until removed by the court.

Oath.

SEC. 2. Every person appointed a master commissioner shall take the oaths required by the constitution and laws of this State, before he shall proceed to discharge any of the duties of his office; and such oath shall be entered at full length on the order book of the court for which he may be appointed.

Power to sell and convey real estate.

SEC. 3. Every master commissioner shall, under the direction of the court, have power to sell and convey real estate.

Power to administer oaths, issue subpœnas, and compel the attendance of witnesses.

SEC. 4. Such master commissioners are empowered to administer all oaths and affirmations which are required by law; to take and certify affidavits and depositions; to issue subpœnas for witnesses whose testimony is to be taken before them; and shall have the same power to compel the attendance of witnesses and punish contempts as is given to justices of the peace.

Subpœnas executed by sheriff or constable.

SEC. 5. All subpœnas and process necessary to the exercise of the duties of a master commissioner, shall

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be executed and returned by the sheriff, or any constable of the county to whom the same may be directed.

Fees.

SEC. 6. Such master commissioners shall be allowed the same fees as other officers for similar services, and where no fees are specified, the court shall make such allowances for the service performed as shall be just and reasonable, and all such costs shall be taxed as a part of the costs in the case in which they may have accrued.

May discharge the duties of master in chancery.

SEC. 7. Such master commissioners shall have the powers and discharge the duties herein mentioned which have heretofore been performed by masters in chancery, so far as the same may be consistent with existing laws.

CHAPTER 71.

AN ACT to authorize any person desiring to erect a flouring mill or other machinery to be propelled by water, on his own land, to make a race way below such mill or machinery, through land belonging to other persons, and to regulate the assessment and payment of damages therefor, being an act supplemental to article 41, chapter 1, of part second of the Revised Statutes of 1852.

[APPROVED MARCH 1, 1853.]

Persons using water power for mills or machinery may make a race through land belonging to another—damages to be paid—how assessed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any person or persons desirous of erecting on his or their own land a flouring mill or other machinery to be propelled by water, and who do not own the lands below the proposed site for such mill or machinery, may make a race way through such lands below, so that the water may flow from such proposed mill or machinery into the river or creek below, upon the person or persons desiring to make such raceway, pledging to the person or persons entitled thereto, the equitable value of the land taken for the purposes of such raceway; and such other damages as the same may occasion to said owner or owners; and also pay to the person or persons entitled thereto, the damages which such raceway may occasion to the owner or owners of other land below the said proposed mill or machinery; which damages shall be assessed in conformity with the provisions of article 41, chapter 1, of part second, volume second, of the Revised Statutes of 1852, so far as applicable.

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Proceedings, how conducted

SEC. 2. The proceedings to be instituted, to acquire the rights herein provided for, shall in all respects conform to the provisions of said article 41, chapter 1, part second, of the Revised Statutes of 1852.

Emergency.

SEC. 3. Whereas, an emergency exists, demanding the immediate taking effect of this act, it is hereby declared that it shall be in force from and after its passage.

CHAPTER 72.

AN ACT to prevent the forfeiture of the charters of mining or manufacturing companies within this State, on account of irregularities in the time and place of meeting of stockholders or directors, or in the election of officers, or for having subscribed stock in or made loans to any other incorporated company in this State.

[APPROVED FEBRUARY 1, 1853.]

Causes enumerated not to forfeit charter.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That no charter of any mining or manufacturing company within this State shall be deemed to have been forfeited for any of the following enumerated causes heretofore having occurred:

First. For any irregularities in the time or place of meeting of stockholders or directors, or the election of officers, or in the notices given, or in consequence of failure to give notices required to be given: *Provided*, a majority of the stockholders were represented at such meetings or elections.

Second. For having subscribed stock in or made loans of money or bonds to any other incorporated company in this State.

Proviso.

Provided, That any bonds and interest checks, subscription of stock heretofore issued or subscribed by any such manufacturing or mining company, in violation of its charter, are hereby legalized, and declared valid against the company having issued or subscribed the same. And such bonds and interest checks, as the same fall due, shall be received by the company that issued the same in payment of any debts due such company from any other corporation or individual.

Proviso.

And provided further, That the rents of any such company now due or hereafter accruing, upon which any bonds may be a lien, for the interest thereon, shall

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be appropriated by such company in payment of such interest according to the tenor of said bonds.

And provided further, That any such manufacturing or mining company shall pay all the costs that have accrued on any information now pending in any circuit court of this State for a violation of their charter. Proviso.

CHAPTER 73.

AN ACT to amend section 3 of an act entitled "an act defining misdemeanors, and prescribing punishment therefor," approved June 14th, 1852.

[APPROVED FEBRUARY 14, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 3 of an act entitled "an act defining misdemeanors and prescribing punishment therefor," approved June 14, 1852, be, and the same is hereby amended so as to read as follows, to wit: Every person who shall violently and unlawfully deprive another of the use of any bodily member, or who shall unlawfully and willfully disable the tongue or eye, or slit or bite the nose, ear or lip of another, shall be deemed guilty of simple mayhem, and upon conviction shall be fined not exceeding two thousand dollars nor less than five dollars; and may be imprisoned in the county jail not exceeding six months, and not less than twenty days. Simple mayhem. Penalty.

CHAPTER 74.

AN ACT to amend an act entitled "an act providing for the appointment of Notaries Public, and defining their powers and duties," approved June 9th, 1852, "amending section 2, and repealing section 3 of said act."

[APPROVED FEBRUARY 9, 1853.]

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That section one of said act be amended so as to read as follows: Notaries public shall Governor to appoint upon certificate.

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be appointed and commissioned by the Governor, upon a certificate of qualification and moral character from the judge of the circuit or common pleas court of their counties respectively, and shall, before they enter upon their duties as such, take an oath of office before the clerk of the circuit court of their counties respectively, and file in his office, to be approved by him, an official bond, in the penalty of one thousand dollars.

Bond, where filed.

Notaries to serve out their terms—may be appointed when it would promote the public interest.

SEC. 2. That section two of said act be amended to read as follows: Notaries now appointed may serve out the terms for which they were respectively appointed, and the Governor may appoint notaries public in the several counties, whenever, in his judgment, the public interest would be thereby promoted.

Repeal of section.

SEC. 3. Section 3 of said act is hereby repealed.

Emergency.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 75.

AN ACT to amend an act entitled "an act touching official bonds and oaths," approved June 9, 1852.

[APPROVED FEBRUARY 7, 1853.]

Where indorsed and by whom certified.

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That section two of an act entitled "an act touching official bonds and oaths," approved June 9, 1852, be and the same is hereby so amended as to read as follows, to wit: Such oath, except in the cases specified in the following section, shall be indorsed on the commission or certificate, and signed by the person so sworn, and certified by the officer before whom the same was taken, who shall also deliver to such person a certified copy thereof.

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CHAPTER 76.

AN ACT authorizing the Governor to contract for the erection of an additional number of cells at the Penitentiary, and for making certain improvements upon the grounds thereof.

[APPROVED MARCH 3, 1853.]

Governor to contract for additional number of cells.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Governor be, and he is hereby authorized and requested to contract with some suitable person or persons for the erection, in a substantial and workmanlike manner, of such an additional number of cells at the penitentiary, as to him may appear necessary; and for grading, paving and McAdamizing the ground enclosed by the walls of the penitentiary, so as effectually to secure proper drainage of said ground; and for the building a reservoir on said grounds, if, in the opinion of the Governor, a reservoir be necessary for the protection of the buildings against fire.

Estimates to be made.

SEC. 2. It shall be the duty of the Governor to appoint a disinterested workman to make monthly estimates, during the progress of the work, of the amount due upon said contract, and upon such estimates being filed in the office of the Auditor of State, it shall be the duty of said Auditor to draw his warrant upon the Treasurer of State, in favor of the contractor or contractors, for the amount of said estimates, reserving, however, from the said amount twenty per centum, until said work shall be fully completed.

Prices to be governed by.

SEC. 3. The Governor, in making such contract, shall be governed by the prices for similar work, which prevail in the vicinity of the Falls of the Ohio river, and no higher prices shall be allowed for the work, under the contract herein authorized, than are paid for work of that description, in such vicinity.

Appointee to make affidavit, where filed.

SEC. 4. The person appointed by the Governor, as contemplated by the second section of this act, shall, before entering upon the discharge of his duties, make an affidavit before some person authorized to administer oaths, faithfully and impartially to discharge the duties of his appointment, which affidavit shall be filed in the office of the Auditor of State.

No money paid out, except under contract.

SEC. 5. No money shall be paid out of the State Treasury for any work done hereafter in making improvements on the buildings or grounds connected with

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the penitentiary, unless it be done in pursuance of an express contract with the State, or by authority of law.

Amounts appropriated.

SEC. 6. The sum of one thousand dollars is hereby appropriated for the grading, paving and McAdamizing the grounds, and constructing a reservoir, and the further sum of five thousand dollars is hereby appropriated for the erection of the cells, as contemplated by the first section of this act.

Emergency.

SEC. 7. There being an immediate necessity for making the improvements contemplated by this act, the same is declared to be a case of emergency, and it is hereby declared that this act shall be in force from and after its passage.

CHAPTER 77.

AN ACT to legalize irregularities heretofore occurring in the filing of articles of association of Plank Road Companies.

[APPROVED MARCH 1, 1853.]

Articles filed with the Auditor to have the effect as if filed with the recorder.

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That whenever any association of persons organized under the general laws of this State, for the purpose of constructing and owning a plank road, shall have filed their articles of association or copies thereof, in the office of the auditor of any county, such filing shall have the same force and effect as if such articles of association had been filed in the office of the recorder of such county; and every such company or association of persons shall have the same rights and privileges, and shall be subject to the same liabilities, as if their articles of association had been filed in such recorder's office.

Emergency.

SEC. 2. It is hereby declared that an emergency exists for this enactment, and that this act shall take effect and be in force from and after its passage.

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CHAPTER 78.

AN ACT to amend an act entitled "an act authorizing the construction of Plank, McAdamized, and Gravel Roads," approved May 12, 1852.

[APPROVED FEBRUARY 19, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 15 of chapter 80 of Revised Statutes, entitled, "an act authorizing the construction of Plank, McAdamized, and Gravel Roads," approved May 12, 1852, be, and the same is hereby amended to read as follows, to wit: Such company may fill all vacancies occurring in their board of directors by resignation or otherwise, by the remaining directors, at any of their meetings, and may make and publish, any and all ordinances and by-laws which they may deem proper, not inconsistent with the laws of this State, in order to regulate the travel upon such road, and the rules to be observed by persons in meeting, or passing with teams and vehicles, and all other matters, including the times and places of holding elections, and the manner in which they shall be conducted, which may be deemed for the welfare of such company. Rules, as well as toll rates, for travel shall be placed in full view, and legible, and large letters upon, or in each and all of the toll houses of such company on said road. Any person violating any ordinance or by-law made by such company, shall forfeit and pay to such company any sum not exceeding one hundred dollars, to be sued for and collected by such company in an action of debt before any justice of the peace of the county where the offender may be found. The company may change the line of its road whenever it may deem it of public importance, and for the improvement of the road; but shall not avoid the points mentioned in their articles of association; such company may extend its road by procuring the consent of two thirds of the stockholders.

Powers of company.

Penalty for violating by-law.

May change the line of its road.

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CHAPTER 79.

AN ACT to enable Turnpike, Plank, Gravel, and McAdamized Road Companies heretofore chartered, who have gone on to construct their roads, but have failed to complete the same within the time specified in their charters, to complete their unfinished roads, and to erect toll-gates.

[APPROVED MARCH 1, 1853.]

Certain failures not to cause a forfeiture of charter.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any Turnpike, Plank, Gravel or McAdamized Road Company who have been heretofore chartered and have been engaged in the construction of their roads, but have failed to complete the same within the time specified in their charters, such failure shall not work a forfeiture of their charters but said companies shall proceed to the completion of their respective roads, and enjoy all the benefits and immunities as fully as though they had their roads completed within the time specified in their respective charters: *Provided*, That nothing herein contained shall be construed so as to revive the charter of any Turnpike, Plank, Gravel, or McAdamized road company whose work has been abandoned, or whose road is not completed within three years from the passage of this act.

Not to demand toll until four consecutive miles are completed.

SEC. 2. Any company availing themselves of the provisions of this act shall not be entitled to receive or demand toll on such roads until they shall have completed four or more consecutive miles.

Where toll gates may be erected.

SEC. 3. That any Turnpike, Gravel, Plank, or McAdamized road company who have, or who may hereafter have constructed four consecutive miles, or more, of their road may erect toll-gates as near together as four miles, in case it should be to their interest so to do.

Emergency.

SEC. 4. An emergency exists for the immediate passage of this act, therefore the same shall take effect and be in force from and after its passage.

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CHAPTER 80.

AN ACT to amend section 75 of an act entitled "an act to revise, simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of this State; to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity."

[APPROVED MARCH 1, 1853.]

When pleadings not to be deemed the proof of facts.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 75 of an act entitled "an act to revise, simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of this State; to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," be, and the same is hereby amended so as to read as follows, to wit: Pleadings sworn to by either party, in any case, shall not, on trial, be deemed proof of the facts alleged therein, nor require other or greater proof on the part of the adverse party, than those not sworn to, except when the execution of a written instrument has been denied by a plea sworn to as provided for in section 80 of said act.

CHAPTER 81.

AN ACT to amend section 119, of an act entitled "an act to revise, simplify and abridge the rules, practice, pleadings and forms in criminal actions, in the courts of this State," approved June 17, 1852.

[APPROVED MARCH 1, 1853.]

Bill of exceptions—supreme court may give opinion, to be binding upon inferior courts.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 119 of the act in the title of this act referred to, be amended to read as follows, to wit: The prosecuting attorney may except to any opinion of the court, during the prosecution of any cause, and reserve the point of law for the decision of the supreme court. The bill of exceptions must state clearly so much of the record and proceedings as

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may be necessary for a fair statement of the question reserved. In case of the acquittal of the defendant, the prosecuting attorney may take the reserved case to the supreme court, upon an appeal, at any time within one year. The supreme court is not authorized to reverse the judgment upon such appeal; but only to pronounce an opinion upon the correctness of the decision of the court below. The opinion of the supreme court shall be binding upon the inferior courts, and shall be a uniform rule of decision therein.

CHAPTER 82.

AN ACT providing for serving process upon the Officers, Directors, Attorneys or Agents of any Railroad Company.

[APPROVED MARCH 4, 1853.]

Upon whom process may be served.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all writs, warrants, or other process issued or to be issued from any court of competent jurisdiction, in this State against the President of any railroad company, whose principal office is not within this State, may be served upon any officer, director, attorney or general agent of said company, and such service shall be as binding and of the same effect as if the same had been served upon the President of the company: *Provided, however*, that process shall not be served upon any officer, director, attorney or general agent, who may be plaintiff in the suit, or who may have any interest therein against such company: *Provided, further*, that at least thirty days' notice shall be given of the time and place of the pendency of said suit.

Proviso.

Repeal.

SEC. 2. All laws and parts of laws coming in conflict with the provisions of this act be, and the same are hereby repealed.

Emergency.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act and that it shall take effect and be in force from and after its passage and publication in the Daily Indiana State Sentinel and Daily Indiana State Journal. *

* Published in the Daily Indiana State Sentinel March 22, 1853; and in the Daily Indiana State Journal March 25, 1853.

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CHAPTER 83.

AN ACT authorizing Railroad Companies to change their names.

[APPROVED FEBRUARY 22, 1853.]

WHEREAS, Charters have heretofore been granted for the construction of railroads between certain localities, and amendments authorizing extensions thereto, have subsequently been passed, in consequence of which the names originally given to the companies do not indicate the location, course or termination of their roads:

AND WHEREAS, It is desirable that the name of a railroad should afford some information as to its location: therefore,

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. Railroad companies desiring so to do, may change their names by resolution of their boards of directors duly entered upon their records, and in so doing may adopt such name as may be agreed upon by said board: *Provided, however*, that nothing herein contained shall authorize the New Albany and Salem railroad company to change their corporate name, until said company shall have constructed that portion of their road which has been surveyed, and located north of Lafayette, and between Michigan city and the Illinois State line.

May change name by resolution.

Proviso.

SEC. 2. It shall be the duty of said board to cause a copy of the resolutions changing the name of their road as above provided, to be recorded in the office of the recorder of the several counties through which the road may run, and also to give notice thereof by publication in some newspaper of general circulation in this State.

Record and publication of resolution.

SEC. 3. The change of name as herein provided shall not be construed to deprive any company of any of the powers and franchises granted to it by the original act of incorporation or amendments thereto, nor shall anything herein contained be so construed as to prevent any company changing its name from suing or being sued in its original name for all rights and liabilities which may have accrued previous to changing its name.

Change of name not to deprive company of any privileges.

May sue and be sued in its original name.

SEC. 4. It is hereby declared that an emergency exists requiring that this act shall take effect immediately, therefore it shall be in force from and after its passage.

Emergency.

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CHAPTER 84.

AN ACT to authorize two or more Railroad Companies to assume a common name, and to sue and be sued, contract and be contracted with, and prosecute their business, under such common name.

[APPROVED JANUARY 25, 1853.]

How two or more railroad companies may assume a common name.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever two or more railroad companies have heretofore become associated or shall hereafter become associated in jointly making or running their roads under any contracts formed or to be formed by such companies, and desire to assume one common name, it shall and may be lawful for such companies by resolution of their respective boards of directors, entered upon their records, to adopt such name as shall be agreed upon.

Record of resolution.

SEC. 2. It shall be the duty of said companies upon the adoption of such common name, to cause a copy of the resolution of such boards to be recorded in the recorder's office of the different counties through which the road of said companies may run or be located, and thereafter during the term of such association, such companies may have and use a common seal, contract and be contracted with, sue and be sued by such adopted name, in any and all matters relating to such union road, and shall have full power by such association, to locate, construct, keep up, change, repair, and operate such union road, as by their respective charters, and amendments to such charters, they are allowed to do:

May sue and be sued.

Provisos.

Provided, however, That nothing herein contained shall be construed to abridge such companies of any of the powers and franchises belonging to them by their respective acts of incorporation and amendments to such acts: *And provided further*, that nothing herein contained shall be construed to prevent said companies from suing and being sued in their original corporate names, for all rights accrued and for all liabilities incurred before the adoption of such common name.

Emergency.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act; therefore, be it further enacted, that this act shall take effect and be in force from and after its passage.

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CHAPTER 85.

AN ACT to authorize Railroad companies to consolidate their stock with the stock of Railroad companies in this or in an adjoining State, and to connect their roads with the roads of said companies, and to authorize Railroad companies to construct their roads on the routes which they may have heretofore surveyed and located, and to use and occupy the same when completed.

[APPROVED FEBRUARY 23, 1853.]

Companies may consolidate with other companies in or out of the State.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any railroad company heretofore organized, under the general or special laws of this State, shall have the power to intersect, join, and unite their railroad with any other railroad constructed or in progress of construction in this State, or in any adjoining State, at such point on the State line, or at any other point, as may be mutually agreed upon by said companies; and such railroad companies are authorized to merge and consolidate the stock of the respective companies, making one joint-stock company of the two railroads thus connected, upon such terms as may be by them mutually agreed upon, in accordance with the laws of the adjoining State with whose road or roads connections are thus formed: *Provided*, Their charters authorize said railroads to go to the State line, or to such point of intersection.

Proviso.

Extension of railroads through other States.

SEC. 2. That any railroad company heretofore organized, or which may hereafter be organized under the general or special laws of this State, for the purpose of constructing a railroad from any point within this State to the boundary line thereof, is hereby empowered to extend said railroad into or through any other State or States, under such regulations as may be prescribed by the laws of such State or States, into or through which said road may be so extended, and the rights and privileges of said company over said extension, in the construction and use of said railroad, for the benefit of such company in controlling and applying the assets of such company, shall be the same as if their railroads had been constructed wholly within this State.

Power to connect and contract with railroads of other States.

SEC. 3. That any railroad company heretofore organized, or which may hereafter be organized under the general or special laws of this State, and which may have constructed, or commenced the construction of their road so as to meet and connect with any other

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railroad in an adjoining State at the boundary line of this State, shall have the power to make such contracts and agreements with any such road constructed in an adjoining State, for the transportation of freight and passengers, or for the use of its said road, as to the board of directors may seem proper.

Privileges not forfeited.

SEC. 4. No railroad company incorporated or organized by special charter, or under a general law, shall incur a forfeiture of any of its corporate privileges by reason of its having heretofore failed to elect directors within the time prescribed by its charter, or said law, or on account of a misnomer of said company in any publication of notice, or for a failure to complete the work within the designated period; but all said companies, so incorporated as aforesaid, shall have full power and lawful authority to construct and complete, within five years herefrom, their roads over the routes which they may have hitherto respectively surveyed and located, and whenever any railroad company shall have surveyed and located a route for a road, and commenced the construction of the same, they shall have full right and authority to complete said road, and to use and occupy the same. *Provided*, That nothing herein contained shall be construed to extend to any companies, under special charters, except such as are now organized and have actually constructed some portion of said railroad.

Power to complete within five years.

Proviso.

Prohibition in a certain case.

SEC. 5. *It is provided, however*, and it is hereby expressly declared that no railroad company incorporated in this State, the terminus of whose road is at or within two miles of any city or town on the Ohio river, shall consolidate its stock with that of any other company on the opposite side of said river, nor shall run or construct its road along or across the streets of said town or city, without the consent of the corporate authorities of said town or city being, in each case, thereunto obtained: *Provided*, that this proviso shall not apply to or affect, in any manner whatever, the rights or liabilities of any company constructing any road whose terminus is a city or town situate within two miles of the line between this State and the State of Ohio.

Proviso.

Not to repeal certain act

SEC. 6. Nothing in this act shall be construed to repeal or affect, in any manner whatever, the provisions of an act entitled "an act supplemental to an act entitled an act to provide for the incorporation of railroad companies," approved June 18th, 1852.

Emergency.

SEC. 7. Whereas an emergency exists for the passage of this act, the same shall take effect and be in force from and after its passage.

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CHAPTER 86.

AN ACT to explain an act entitled "an act authorizing Railroad Companies to consolidate their stock with the stock of railroad companies in this or an adjoining State, and to connect their roads with roads of said companies, and to authorize railroad companies to construct their roads on the routes which they may have heretofore surveyed and located, and to use and occupy the same when completed," approved February 23, 1853.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the provisions of the first section of the act above recited were intended to apply to railroads hereafter organized as well as to those heretofore organized, and it shall and may be lawful for railroad companies hereafter organized under the laws of this or any adjoining State, as well as those heretofore organized, to consolidate and make their stock joint stock with any other railroad company heretofore or hereafter organized as aforesaid, on the terms and conditions and subject to all the restrictions as stated in said act. Act to apply to companies heretofore organized.

SEC. 2. Whereas, an emergency exists for the passage of this act, the same shall take effect and be in force from and after its passage. Emergency.

CHAPTER 87.

AN ACT authorizing corporations formed in pursuance of an act entitled "an act to provide for the incorporation of railroad companies," approved May 11, 1852, to file in the office of the Secretary of State a certified copy of their articles of association, in lieu of their original articles of association, and legalizing the action of such corporations in that respect where such certified copy has been heretofore so filed in lieu of the original articles, and prescribing the effect of such copy.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter it shall not be necessary for any association or corporation, formed for Certified copy of articles may be filed, and the original retained.

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the purpose of constructing, owning and maintaining a railroad, in pursuance of an act entitled "an act to provide for the incorporation of railroad companies," approved May 11, 1852, to file their articles of association in the office of the Secretary of State, but a copy of such articles duly certified by the officers, or persons duly authorized of such association or corporation, may be so filed, and the original retained in the possession of such corporation.

Copies heretofore filed legalized.

SEC. 2. Whenever any association or corporation formed under the provisions of said act, have heretofore filed in the office of the Secretary of State a copy of the original articles of association in lieu of such original articles, the action of such corporation in the premises is hereby legalized, and the same effect is hereby given to such copy as if the provisions of section two of the aforesaid act had been strictly complied with: *Provided, however*, such corporation shall, within six months after the taking effect of this act, authenticate the copy so filed by a proper certificate, or file in the office of Secretary of State in lieu of the copy heretofore filed, another copy of such original articles of association duly certified and authenticated by the proper officer or officers of such corporation.

Proviso.

CHAPTER 88.

AN ACT granting the right of way to the Ohio and Indianapolis Railroad Company to construct a railroad through the grounds of the State surrounding the Asylum for the Deaf and Dumb.

[APPROVED MARCH 5, 1853.]

Right of way through certain lands belonging to the State.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That a right of way through the land of the State surrounding the Asylum for the Deaf and Dumb, is hereby granted to the Ohio and Indianapolis railroad company,—such right of way to be thirty feet in width, and adjoining the Central Indiana railroad now constructed through such land, on the south side of such railway; and this act shall take effect immediately after the passage thereof.

Right of way through swamp lands.

SEC. 2. And it is further enacted that a right of way is hereby granted through any swamp lands belonging to

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the State, to any railroad company organized, or to be organized under the laws of this State—such right of way to be to the width of one hundred feet.

CHAPTER 89.

AN ACT to amend the charter of the Lawrenceburgh and Upper Mississippi Railroad Company.

[APPROVED MARCH 4, 1853.]

Provisions relative to the right of way, the assessment of damages, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the 15th section of an act entitled "an act [to] incorporate the Lawrenceburgh and Rushville Railroad Company," be, and the same is hereby amended to read as follows: In all cases where any person through whose land the railroad may run, shall refuse to relinquish the same, or where a contract cannot be made between the parties, it shall be lawful for the corporation to give notice to some justice of the peace in the township where the difficulty may occur, that such facts do exist, and such justice of the peace shall thereupon summon such owner to appear before him within ten days thereafter, and shall appoint twelve disinterested men of the township, who shall, after taking an oath, faithfully and impartially to assess the damages, if any, view the land and materials, and after having taken into consideration the advantages as well as disadvantages the road may be to the same, whether such person is entitled to damages or not, and if so, how much, and shall file such return with such justice; whereupon said justice shall enter judgment thereon, unless for good cause then shown; and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises either with or without costs: *Provided*, that either party may at any stage of the proceedings appeal to the circuit court of the proper county as in other cases; and such court shall appoint viewers as above provided, who may report at that or succeeding terms in the discretion of the court; and the judgment of the circuit court shall be final: *And provided further*, that either party shall have the right to challenge jurors as in other civil cases; and that in assessing damages for materials for the construction of said road,

Proviso.

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said jurors shall not take into consideration the advantages said road may be to the persons from whom said materials are sought to be taken: *Provided*, that in selecting juries to assess damages for the right of way, it may be competent to select juries from any part of the county in which such land is situated.

Repeal. SEC. 2. Any thing in the act to which this is an amendment, or the acts amendatory thereof inconsistent with this act is hereby repealed.

Emergency. SEC. 3. An emergency existing for the immediate taking effect of this act, it is hereby declared to be in force from and after its passage.

CHAPTER 90.

AN ACT to amend the first section of an act approved February 11, 1851, entitled "an act to amend an act entitled an act to incorporate the Lake Michigan, Logansport and Ohio Railroad Company," enacted by the General Assembly in February, 1848, and empowering said company to run their road to such point on the line of the Northern Indiana Railroad as said company may select.

[APPROVED FEBRUARY 23, 1853.]

Power to examine and locate. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of the act referred to in the title be so amended as to read as follows, to wit:

That the Lake Michigan, Logansport, and Ohio River Railroad Company be and they are hereby authorized and empowered, by themselves or their agents, to examine, survey, locate and construct a railroad, with a single or double track, upon the most eligible ground for the interest of the company, and not injurious to the public, commencing at the town of Logansport, in Cass county, and running thence north, either

Terminus. to Michigan City, or to such point on the line of the Northern Indiana Railroad as said company may select.

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CHAPTER 91.

AN ACT to amend the charter of the Evansville and Illinois Railroad Company.

[APPROVED MARCH 4, 1853.]

WHEREAS, It has been represented to the present General Assembly that pursuant to the provisions of section 27 of the "act to incorporate the Wabash Railroad Company," approved February 6, 1851, the several companies organized under the "act to incorporate the Evansville and Illinois railroad company," have consolidated their charters and have become one company, subject to the liabilities and privileges of the said several charters, and in and by their act of consolidation have adopted the name of the Evansville and Illinois Railroad Company as their corporate name. Therefore, Preamble.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the actings and doings of said several companies, in all the steps whereby their consolidation into one united company did become consummated, be and the same is hereby confirmed and made valid and effectual to all intents and purposes, and that all the sections and provisions of the several charters so consolidated, and the amendments thereto in force shall be applicable, and of binding force and obligation along the whole line from Evansville to Crawfordsville, in the same manner, and to the same extent, as if the same had been originally embodied in a single charter for the whole line aforesaid. Acts of company confirmed.

SEC. 2. That the corporate name and style of said company, as adopted in the act consolidating said several companies, is hereby changed, and henceforth the said company shall be called and known by the name of the Evansville and Crawfordsville Railroad Company, and by that name and style shall sue and be sued, plead and be impleaded, and do all acts and things, and in and by that name the said company shall be held liable for all contracts and engagements, and for all acts made or done by the said several companies, before the said act consolidating the same, and before this act shall come to be in force, and all moneys, property, rights, credits, privileges, and interest acquired or possessed by said several companies before their consolidation or afterwards, and before the publication and acceptance Change of name.

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of this act, shall belong to and be possessed by said consolidated company, in and by the name and style of the Evansville and Crawfordsville Railroad Company, in the same manner and to the same extent, to all intents and purposes, as the same did belong to and was possessed by the said several companies respectively, and as if the name adopted on consolidation had not been hereby changed.

Stock forfeited.

SEC. 3. That whenever any stockholder or stockholders who shall have subscribed stock in either of said companies, before the consolidation thereof, or since then in company or consolidated, shall have failed, neglected or refused to pay any two requisitions or instalments made or called for, the said company shall have the power to declare the stock of any such stockholder or stockholders, and all payments made thereon, to be forfeited by their order, published in any newspaper printed in the county where such delinquent stock shall have been subscribed, if one shall be therein printed, and if not, in a county adjoining thereto, such forfeiture to take effect and become absolute at the expiration of ninety days from and after the first publication of such order.

Emergency—acceptance.

SEC. 4. An emergency existing by reason of the fact that the said railroad is now in course of prosecution, this act shall be in force from and after its publication and acceptance by the directors of said company.

CHAPTER 92.

AN ACT to prevent Railroad Companies from changing their Depots, except on conditions therein named.

[APPROVED MARCH 4, 1853.]

Railroads commencing or terminating at certain localities shall not change their depots without the consent of city council.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That no railroad company commencing or terminating at a city on the Ohio river opposite or within two miles of a larger city out of the limits of the State having once established and built a depot within the limits of such city, shall hereafter change the location of, or establish another depot at or near such city, without the consent of the common council thereof, and a violation of this law shall be

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deemed a forfeiture of the charter of such company: *Provided*, That nothing herein contained shall be construed to prevent any railroad company having authority so to do, and not prohibited by any law of this State, from running a freight track to said river. Proviso.

CHAPTER 93.

AN ACT to provide compensation to the owners of animals killed or injured by the cars, locomotives or other carriages of any railroad company in this State.

[APPROVED MARCH 1, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana:* That whenever any animal or animals shall be killed or injured by the cars or locomotives or other carriages used on any railroad in this State, the owner thereof may go before some justice of the peace of the county in which such injury occurred, and file his complaint in writing, and such justice shall fix a day to hear said complaint, and shall cause at least ten days' notice to be served on the railroad company defendant, by service of summons by copy on any conductor of any train passing through said county. Owner may file complaint when animals are killed by cars or locomotives. Service of summons.

SEC. 2. On the hearing of said cause, the justice or jury trying the same shall give judgment for the plaintiff for the value of the animal destroyed or injury inflicted without regard to the question whether such injury or destruction was the result of willful misconduct or negligence, or the result of unavoidable accident. Plaintiff to recover the value of the animal without regard to the proof of negligence.

SEC. 3. If the defendant shall appeal from such judgment, and shall not reduce the damages assessed twenty per cent., the appellate court shall give judgment for double the amount of damages assessed in such appellate court, and a docket fee of five dollars. Appeal—docket fee.

SEC. 4. This act shall not apply to any railroad securely fenced in and such fence properly maintained by such company. Not to apply to railroads securely fenced in.

SEC. 5. Sections one and two of an act entitled "an act to prevent the destruction or injury of animals and the destruction of human life by railroads, and to provide compensation for the same," approved May 11, 1852, are hereby repealed, but such repeal shall not affect any action instituted to recover damages by virtue of said sections. Repeal. Not to affect former actions.

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CHAPTER 94.

AN ACT to amend an act entitled "an act authorizing Recorders to make out complete or general indexes to records of deeds and mortgages, and to procure and use seals," approved February 16th, 1852.

[APPROVED MARCH 2, 1853.]

Recorders to make out general indexes.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of an act authorizing recorders to make out complete or general indexes to records of deeds and mortgages, and to procure and use seals, approved February 16, 1852, be and the same is hereby amended to read as follows, to wit: Each recorder in this State is hereby authorized and required, within a reasonable time after the passage of this act, to make out, where the same has not been done, a complete or general index to all the records of deeds for real estate in his office. Such index shall be double, giving the name of each grantor and grantee, alphabetically, a concise description of the premises, the date of the deed, together with the number or letter of the book and the page in which each deed is recorded.

Allowance for indexes.

SEC. 2. The fourth section of said act is hereby amended to read as follows, to wit: The board doing county business shall allow the recorder for making such complete or general indexes, fifteen cents for each hundred words contained in the same; and it shall be the duty of such recorder to keep up and continue such index, in the manner aforesaid, as deeds and mortgages shall from time to time be recorded. *Provided, however*, that nothing in this section contained, shall be construed to require the board doing county business to make further allowances to any recorder on account of work done under the law hereby amended, than was stipulated and agreed upon, or than what has been paid and accepted for such service.

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CHAPTER 95.

AN ACT to authorize and require clerks of the court of Common pleas, in all cases where the proper record books have not been provided in time for the January term of said court, for the year 1853, to transcribe from the original records into the new record-books, when provided, and to legalize the same.

[APPROVED MARCH 2, 1853.]

Clerk may transcribe the record under the direction of the judge.

SECTION 1. *Be it enacted by the* [*General*] *Assembly of the State of Indiana*, That in all the counties of this State, in which a session of the court of common pleas has been, or may be held, before the proper record books have been provided, in which to permanently record the proceedings of said court, it shall be, and is hereby made the duty of the clerk of said court to transcribe the records of said term of court, under the direction of the judge thereof, into the proper books, when provided; and when the original records have been so transcribed, and signed by the judge, the same shall be as valid, in all respects, as if the same were the original record.

Emergency.

SEC. 2. Whereas, an emergency exists for the passage of this act, it is hereby declared to take effect from and after its passage and publication in the Indiana State Sentinel and State Journal.*

*Published in the Indiana State Sentinel March 11, 1853; and in the Indiana State Journal March 19, 1853.

CHAPTER 96.

AN ACT supplemental to an act entitled "an act for the relief of certain persons therein named," approved February 16, 1848, which act reads in the words and figures following: "An act for the relief of certain persons therein named," approved February 16, 1848.

[APPROVED MARCH 2, 1853.]

Preamble.

WHEREAS, It has been represented to this General Assembly, that John Wilkie of Edinburgh, in Scotland, between the years 1821 and 1825, was the purchaser of two-thirds of the east half of section thirty-four, in township five, of range twelve, and the south half

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of the southeast quarter of section twenty-two, in township five, of range twelve, of lands sold at Jeffersonville, all situate in Switzerland county, and State of Indiana; that said John Wilkie caused valuable improvements to be made thereon, and greatly enhanced the value of said lands; that said John Wilkie, in January, 1846, by duly authenticated power of attorney at Edinburgh, in Scotland, constituted William Wilkie, of Boone county, Kentucky, and Alexander Allen, of Switzerland county, Indiana, his attorneys in fact, jointly or separately, to sell and convey said tract of land, or any part thereof, to give bonds, execute and deliver deeds, receive mortgages, &c. AND WHEREAS, The said William Wilkie, as such attorney in fact, has sold portions of said land to the following persons, to-wit: James Furgerson, John Ashurty, William M. Weaver, John A. Weaver, and James M. Weaver, who are citizens of the United States, and residents of Switzerland county, Indiana, and executed and delivered deeds and bonds to said purchasers, and received part payment of the purchasers, and received mortgages to secure the payment of the residue, the said William Wilkie and the said purchasers being under the erroneous impression that he had a right to sell and convey. AND WHEREAS, Also, it appears doubtful whether the said power is full and ample (to) authorize the sale of eighty acres that was sold by said attorney to James Furguson, for which said attorney gave to said James Furguson a bond for a title; for remedy whereof:

Acts of attorney to be valid.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all the acts and doings of the said William Wilkie as such attorney in fact, so far as said power of attorney authorizes said acts and doings, and all deeds, mortgages, and bonds made and executed by authority of said power of attorney, or in pursuance thereof, be, and they are hereby declared to be as valid and effectual, to all intents and purposes, as if the said John Wilkie had been a citizen of the United States at the time of the executing of said power of attorney.

AND WHEREAS, It is represented in said act, and in the preamble thereto, that said power of attorney was duly authenticated, when in fact, by mistake, it was proven before Adam Black, Lord Prevost, and chief magistrate of the city of Edinburgh, and by him certified under his special seal, instead of having been

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proved before a consul of the United States, to which is appended the certificate of Robert Grieve, Consul of the United States of America for Lieth, and the dependencies thereof, under the consular seal of the United States of America, certifying to the official character of Adam Black, and that he was duly authorized to administer oaths, &c. AND WHEREAS, Also, by said act of February 16, 1848, it is doubtful whether the power that was intended to be given by the first section of said act, to make and execute deeds in future is clearly and sufficiently expressed: for remedy whereof:

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the aforesaid power of attorney, and transcripts from the records thereof duly certified, shall be admissible in evidence in all the courts of this State, the same as if said power of attorney had been acknowledged or proved, and certified in conformity with the laws of this State, and the record thereof shall be deemed to have the same force and effect that it would have had if the original had been acknowledged or proved, and certified in conformity with the laws of this State: *Provided*, that nothing herein contained shall be construed as intended to divest or impair any rights already vested, except that as against the State of Indiana it shall be deemed valid, effectual and regular to all intents and purposes.

SEC. 2. It is hereby declared to have been the intent and meaning of the first section of the act to which this act is supplemental, to confer power on said William Wilkie to make and execute a deed or deeds in future for any of the aforesaid lands as the attorney in fact of said John Wilkie.

SEC. 3. Whereas, in the opinion of this General Assembly, an emergency exists for the immediate taking effect of this act, therefore this act is declared to be in full force and effect from and after its passage. Emergency.

CHAPTER 97.

AN ACT for the relief of Henry Pittenger, of Delaware county, and prescribing the duties of the Auditor of said county in relation thereto.

[APPROVED MARCH 2, 1853.]

WHEREAS, Henry Pittenger, of Delaware county, mortgaged to the school fund of said county, the North Preamble.

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half of the North-east quarter of section Thirty, (30) in township Twenty-one, (21) North of range Eleven (11) east, to secure the payment of a loan of one hundred dollars, and as the same was forfeited for the non-payment of interest and was sold by the school commissioner of said county, and was purchased by the township trustees, for school purposes, and is still held by said trustees. Therefore,

Deed may be made provided certain conditions are complied with.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever the said Henry Pittenger shall, within one year herefrom, pay or cause to be paid, to the treasurer of said county, the said loan of one hundred dollars, together with all the interest and cost, that may have accrued on said loan, and on the sale of said land, it shall be the duty of the auditor of said county to make out, and deliver to the said Henry Pittenger, a deed for said land so redeemed, which deed shall effectually pass the title back to said Henry Pittenger.

CHAPTER 98.

AN ACT to repeal certain acts therein named.

[APPROVED FEBRUARY 14, 1853.]

Title of acts repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the following acts of the last General Assembly be, and the same are hereby repealed:

First. An act making general provisions concerning courts of justice, and the powers and duties of judicial officers, approved March 9, 1852.

Second. An act to provide for the organization of county boards, and defining their powers and duties, approved March 7, 1852.

Third. An act to organize the board of trustees of the Indiana University, and defining their powers and duties, and providing for the election of president and other officers, and pointing out their powers and duties, approved March 8, 1852.

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CHAPTER 99.

AN ACT to repeal certain sections of the law incorporating the town of Cleaveland, in Hancock county.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That sections numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of an act entitled "an act to change the name of Portland, in Hancock county, to that of Cleaveland, and to incorporate the same," approved February 11, 1851, be, and the same is hereby repealed. Sections repealed.

CHAPTER 100.

AN ACT to repeal an act entitled "An act to locate a State road in the counties of Clay and Owen."

[APPROVED MARCH 4, 1853.]

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That an act entitled "an act to locate a State road in the counties of Clay and Owen," approved February 8, 1848, be, and the same is hereby repealed. Repeal.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage. Emergency.

CHAPTER 101.

AN ACT to repeal an act entitled "an act to amend the charter of the Evansville and Illinois Railroad Company," approved Feb. 8, 1851.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled "an act to amend the charter of the Evansville and Illinois Railroad Company," approved February 8, 1851, (page 535 Local Laws,) be, and the same is hereby repealed. Act repealed.

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CHAPTER 102.

AN ACT to provide for Annual Reports of State Officers, Branches of the State Bank, and Benevolent Institutions to be made to the Governor.

[APPROVED FEBRUARY 3, 1853.]

Officers to make annual reports.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Auditor, Secretary, and Treasurer of State, the Superintendent of common schools, the Commissioners and Superintendent of the Indiana Hospital for the Insane, the Trustees and Superintendents of the Asylums for the Deaf and Dumb, and the Blind, and the several branches of the State Bank of Indiana, shall, on the 31st day of October in each year report as now, or may hereafter be provided by law, to the Governor of State: *Provided*, that in making out their reports said Superintendents and Trustees of the Institutions for the Deaf and Dumb and the Blind, and the Hospital for the Insane, shall set forth in their reports each *item* of expenditure on account of said Institutions separately.

Governor to lay reports before the Legislature.

SEC. 2. At each regular session of the General Assembly immediately after the organization of the same, the Governor shall lay before each branch of the General Assembly, all reports contemplated in this act.

Governor to cause reports to be printed—how distributed.

SEC. 3. Every year when the General Assembly does not convene on Thursday after the first Monday in January, the Governor shall cause to be printed, a sufficient number of all reports made to him as heretofore provided, to be distributed to the several counties in the State, and also to each member of the General Assembly, not exceeding ten copies of each report to each county, and two copies to each member of the General Assembly, except so far as the report of the Superintendent of Public Instruction is concerned, of which document there shall be printed one hundred copies for each of the counties whose population exceeds fifteen thousand, and for all the remaining counties fifty copies; and, *provided further*, that fifty copies of each of the above reports shall be furnished the Governor for the purpose of exchanging with the different States and Territories, and also two hundred copies to be bound together and preserved in the State Library.

Repealing clause.

SEC. 4. All laws inconsistent with this act be, and the same are hereby repealed.

When act to take effect.

SEC. 5. This act to take effect from and after its passage and circulation.

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CHAPTER 103.

AN ACT in relation to the Reservoirs in the counties of Gibson and Clay.

[APPROVED MARCH 4, 1853.]

Preamble. WHEREAS, It is represented to the General Assembly of the State of Indiana, that the erection of a reservoir or reservoirs in the county of Clay, and the creation of a reservoir in the county of Gibson, by the trustees of the Wabash and Erie Canal, for the purpose of supplying water for the said canal to its terminus at Evansville, on the Ohio river, have been the occasion and cause of sickness in the neighborhood of said reservoirs, in consequence of the standing timber in the same: AND WHEREAS, the trustees aforesaid deny, and are prepared to maintain, that no such consequences have resulted, or can result, from leaving the said timber standing: AND WHEREAS, it is impossible for this General Assembly to decide from *ex parte* testimony a matter involving the outlay of many thousands of dollars of the trust funds placed at the disposal of said trustees, and a want of fidelity to our engagements with the bondholders: AND WHEREAS, the facts of the case and the alleged injury to the health of the neighborhoods cannot be ascertained without an examination and thorough investigation of the whole subject by medical men of science and experience, and their judgment and determination had as to the effect of constructing said reservoirs and leaving said timber standing in the same: AND WHEREAS, it is represented that the trustees of said canal are disposed to have the questions involved fully and fairly tested, and the same settled satisfactorily to all parties, and on terms which shall be honorable to all: Therefore,

Governor to appoint physicians to examine and report. *Be it enacted by the General Assembly of the State of Indiana:* SECTION 1. That the Governor of the State be, and is hereby authorized and empowered to select and appoint five disinterested, competent and scientific physicians, none of whom shall be residents of Clay, Gibson or Vigo counties, Indiana, to make such observations and examinations in regard to the reservoirs in Gibson and Clay counties, during the ensuing summer or fall, at suitable times, as will test the effect of said reservoirs and the standing timber upon the same, upon the health of the surrounding country, and report the

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result of such observations and examinations to the Governor, as early as the first day of January, 1854; and that copies of said report, when so made, shall be forwarded to the board of trustees of the Wabash and Erie canal, and to the boards of county commissioners of Gibson and Clay counties, and that until said report is made and transmitted to said boards, the suits now pending against the said board of trustees of the Wabash and Erie canal, in the counties of Gibson and Clay, for constructing and maintaining said reservoirs, and leaving the timber standing on the same, shall be continued, without prejudice to either party, except the suit now pending in the Gibson circuit court, which has not been commenced by the authority of the State.

By whom expenses paid.

SEC. 2. *Be it further enacted*, That the expenses incurred in these examinations shall be paid by the trustees of the Wabash and Erie canal.

Report may be offered in evidence.

SEC. 3. It shall and may be lawful for either party to the suits now pending in the counties of Gibson and Clay to offer in evidence the report of said physicians in the trials of said suits now pending, or which may hereafter be commenced in any circuit court for constructing or maintaining said reservoirs, and for the purpose of having and obtaining said reports in the trials and suits now pending, the courts of the county of Clay shall, and the courts of the county of Gibson may, in their discretion, on the application of either party, continue said suits until said report is received and put on file in said suit or suits.

Suits may be continued.

Emergency—publication.

SEC. 4. This act is declared to be in full force and effect from and after its passage and publication in the Indiana State Sentinel and Indiana State Journal, an emergency existing, by reason of pending suits, for the speedy taking effect of this law.*

*Published in the Indiana State Sentinel March 11, 1853, and in the Indiana State Journal March 15, 1853.

CHAPTER 104.

AN ACT to raise a revenue for State purposes for the years 1853 and 1854.

[APPROVED MARCH 5, 1853.]

Tax to be levied.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That a tax for State purposes shall be,

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and is hereby authorized and directed to be levied upon each one hundred dollars of the value of all property entered for taxation in the general list of taxables for the years 1853 and 1854, as follows, to-wit:

For the year 1853 twenty cents on each one hundred dollars, and fifty cents upon each poll subject by law to taxation; and for the year 1854 fifteen cents on each one hundred dollars, and fifty cents upon each poll subject by law to taxation. For 1853. For 1854.

SEC. 2. Whereas, in the opinion of this General Assembly, an emergency exists for the immediate taking effect of this act; therefore it shall take effect and be in force from and after its passage and publication in the Indiana Sentinel and Indiana Journal. * Emergency.

* Published in the Indiana State Sentinel March 17, 1853; and in the Indiana State Journal March 19, 1853.

CHAPTER 105.

AN ACT giving validity to the alterations made and omissions supplied to the Revised Statutes, and in the code of civil and criminal practice of 1852, by the persons superintending the publication of the same.

[APPROVED MARCH 4, 1853.]

WHEREAS, in the publication of the Revised Statutes and code of practice of the year 1852, in pursuance of an act approved June 18, 1852, entitled an act in relation to the printing and distribution of the Revised Statutes and code of civil and criminal practice, the persons superintending the publication of the same have supplied divers omissions, and in some cases substituted other words than those in the enrolled bills, in order to aid the sense, which additions are indicated in brackets, thus [—]; and Preamble.

WHEREAS, doubts exist whether the parts thus supplied are binding as law; therefore,

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That the omissions thus supplied and the alterations thus made as indicated in the brackets [—] be and the same are hereby declared part of the several acts in which they are inserted, and to possess the same validity as if found in said enrolled bills. Omissions declared to be part of acts.

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CHAPTER 106.

AN ACT amendatory of, and supplemental to, an act entitled "an act to provide for a general and uniform system of common schools, and school libraries, and matters properly connected therewith," approved June 14, 1852.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 9 of the above entitled act be, and the same is hereby amended to read as follows:

Trustees to establish schools.

The civil township trustees shall establish and conveniently locate in each township a sufficient number of schools for the education of the children therein: *Provided, however*, that in all enumerations the children of negroes and mulattoes shall be omitted. The property of negroes and mulattoes shall not be taxed for school purposes, nor shall any negro or mulatto derive any of the benefits of the common schools of this State.

Children of negroes not to be enumerated, and property of negroes not to be assessed for school purposes.

Enumeration.

SEC. 2. Section 12 of said act is amended to read as follows: They (the civil township trustees) shall, on or before the 20th day of September in each year, make an enumeration of the children within their respective townships, between the ages of five and twenty-one years, excepting such as may be married, distinguishing between the ages of five and thirteen, and thirteen and twenty-one; and shall ascertain by inquiry to which school parents and guardians desire to send, and shall enroll accordingly for one year, and furnish to each teacher a list of the children assigned to him.

Report of trustees, what to contain.

SEC. 3. Section 14 is amended to read as follows: They (the civil township trustees) shall require of each teacher to file with the clerk of such board, at the expiration of each common school term, a complete report, verified by affidavit, of the number of scholars admitted during such term, distinguishing between male and female, and between the ages of five and thirteen, and thirteen and twenty-one years; the average attendance, books used, branches taught, and the number of pupils engaged in the study of each branch; and until such report shall have been filed, the said trustees shall make no payment to such teachers for services.

Trustees to present statement.

SEC. 4. Section 15 is amended to read as follows: They (the township trustees) shall present at the annual township meeting a statement exhibiting the number of children in each township between the ages of five and

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thirteen, and thirteen and twenty-one years, distinguishing between male and female, the number of schools, the number of teachers, male and female, and the number of children, distinguished as above, who have attended school during the past year, the average attendance, length of school terms, compensation of teachers, male and female, amount of public funds appropriated to the township, condition of school houses and furniture, and estimated value thereof, number and condition of books in the library, value and condition of school apparatus, and complete statement of their expenditures by items.

Compensation of county auditors.

SEC. 5. Section 69 is amended to read as follows: County auditors shall receive for their services in managing the school fund two per cent. damages accruing on all sales for non-payment of loans, and three per cent. on all receipts and disbursements of interest. And county treasurers shall receive for their services two per cent. on all receipts and disbursements of interest.

SEC. 6. Section eighty-five is amended to read as follows:

School examiners, how appointed.

1*st*. The board of county commissioners of each county of this State are hereby authorized to appoint at least one and not more than three school examiners, whose term of office shall expire on the first Monday in March of each year; the clerk of said board shall report, immediately upon their appointment, the name and post office address of each school examiner to the State Superintendent of Public Instruction.

Duty of school examiners.

2*nd*. It shall be the duty of said school examiner to examine all applicants for license, and if found qualified, license them as common school teachers for three, six, twelve, eighteen, or twenty-four months, at the discretion of the examiner; they shall each keep account of all license issued, specifying date, and period of expiration, and shall forward an annual report of the same to the State Superintendent of Public Instruction.

License.

SEC. 7. *Be it further enacted*, That all license shall specify explicitly the branches which the licensee may be qualified to teach, and shall be issued free of charge. But the school examiner shall be entitled to an advanced fee of fifty cents from every applicant for examination.

SEC. 8. The State Superintendent of Public Instruction may license teachers at his pleasure.

Qualification of teachers.

SEC. 9. No person shall be declared qualified to receive a license as common school teacher, unless he or

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she may possess a knowledge of orthography, reading, writing, arithmetic, geography, and English grammar.

Power to sell school houses and lands.

SEC. 10. The township trustees shall, whenever directed so to do by any regular township meeting, sell any school house and the land upon which the same may be situated, if the title to such land be vested unconditionally in the school fund, for the highest price that can be obtained therefor; and upon the payment of the purchase money to the treasurer of such township, the trustee shall execute to the purchaser thereof a deed of conveyance, which shall be sufficient to vest in such purchaser all the title of such township thereto.

When title is defective, other lands to be conveyed.

SEC. 11. When any officer authorized to sell school lands shall have sold any lands without a title thereto, such officer or his successor in office may convey such other lands of equal value as may be agreed upon between such officer and the purchaser, his heirs, executors, administrators or assigns, or failing to make such agreement, the purchase money with interest, shall be repaid to such purchaser, his heirs, executors, administrators or assigns: *Provided, however*, That no moneys shall be thus refunded until the proper prosecuting or district attorney shall have investigated the facts of the case and certified to the correctness of the claim.

Proviso.

State Superintendent to supply school libraries with laws, &c.

SEC. 12. It shall be the duty of the State Superintendent of Public Instruction to supply each common school library in the State with a copy of the Revised Statutes of 1852, the legislative documentary journals for the sessions of 1851 and 1852, and the reports of the State Board of Education and of Agriculture for the year 1852. He shall hereafter forward to each common school library the documentary journals and acts of each session of the legislature; and also the annual reports of the State Board of Education and the State Board of Agriculture.

Treasurer of State to take receipt.

SEC. 13. The Treasurer of State shall take the State Superintendent's receipt for such books and documents, which receipt shall be evidence of the proper disposal of such books and documents.

Emergency.

SEC. 14. Whereas, an emergency exists for the immediate taking effect of this act, therefore, this act shall be in force from and after its passage and publication by authority. *

* Published in the Indiana State Sentinel March 17, 1853; and in the Indiana State Journal March 26, 1853.

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CHAPTER 107.

AN ACT to provide for the distribution of the School Fund for the year ending on the fourth Monday in March, 1853.

[APPROVED FEBRUARY 24, 1853.]

Duty of county auditor.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it is hereby made the duty of county auditors, in each and every county in the State to ascertain, taking the enumeration last made for their data, the number of children entitled to attend school in each township, civil and congressional, of their counties, respectively; and on or before the fourth Monday in March, 1853, to order the school fund for distribution which may be in the treasury of their counties at the time, to be distributed among the civil townships or incorporated cities or towns, where such townships, towns, or cities may be organized according to law, and among the congressional townships where the organization in such townships may have been continued, formally or informally, for school purposes, in proportion to the number of children in each.

How school fund to be distributed.

New enumeration to be taken in certain cases.

SEC. 2. In those counties where the enumeration of children last made is incomplete and unsatisfactory to the auditor, the said auditor shall proceed at once to cause a new enumeration, and shall allow a reasonable compensation therefor, to be paid out of the school fund of the county in which such enumeration shall have been made; and in those districts where there may be no township or district treasurer the proper county auditor may order the funds to which the said district may be entitled to be paid directly to the teachers of said districts, upon presentation by said teachers of a certificate from the trustee or trustees of the proper district, specifying the amount to which said teachers may be entitled for services.

When school funds to be paid directly to teachers.

Unexpended funds to be paid over to township treasurer.

SEC. 3. Whatever funds may remain unexpended in the hands of any school officer on the first Monday in April, 1853, shall be paid over by said officer to the treasurer of the civil township in which the school district of said officer may be situated.

What moneys refunded.

SEC. 4. Whatever moneys may have been assessed and collected in any school district, under the provisions of laws in force prior to the taking effect of an act entitled "an act to provide for a general and uniform system of common schools," &c., approved June 14, 1852, for the purpose of repairing or erecting school

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houses, shall be refunded by the officers having them in charge, to the persons of whom collected, retaining therefrom the proper fees of such officers. *Provided, however*, that such moneys when expended or when due, or when contracted for, shall not be refunded. *Provided, further*, that where school houses shall not be used in consequence of new districts, they shall be sold and the proceeds paid to the inhabitants of the old district; and where land was donated, the same shall revert to the donor.

Proviso.

County treasurers to obey county auditors

SEC. 5. County treasurers shall obey the order of the county auditors in the manner prescribed in section 31 of an act entitled "an act to provide for a general and uniform system of common schools," &c., approved June 14, 1852.

How far act to apply.

SEC. 6. This act is designed to meet an emergency, and shall be in force only so far as to regulate the distribution of the school fund collected for the year ending on the fourth Monday in March, 1853.

To whom copy of act to be sent.

SEC. 7. The State Superintendent of Public Instruction shall, forthwith, cause a copy of this act to be forwarded to each county auditor and treasurer in the State.

Emergency—publication.

SEC. 8. This act is declared to be a case of emergency, and shall be in force from and after its passage and publication in the Indiana State Journal and Sentinel.

*Published in the Indiana State Sentinel March 3, 1853; and in the Indiana State Journal March 5, 1853.

CHAPTER 108.

AN ACT for the relief of the inhabitants of township twelve north, of range nine west, in Vigo county, Indiana, and providing a receiver for certain school moneys belonging to the common school fund of said township.

[APPROVED MARCH 2, 1853.]

Preamble.

WHEREAS, Cephas S. Holden, clerk and treasurer of the board of trustees of common schools, in township twelve north, of range nine west, in Vigo county, departed this life in December, 1852, having in his hands at the time of his death certain moneys belonging to the common school fund of said township:

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AND WHEREAS, there is no person authorized by law to receive and disburse said money. Therefore,

Thos. Houghton may settle with administratrix.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Thomas Houghton, of the county of Vigo, be, and he is hereby authorized to settle with the administratrix of the estate of the said Cephas S. Holden for all moneys in the hands of said Holden at the time of his death belonging to the common school fund of said township, and to receive said moneys from said administratrix, and give her a receipt therefor.

Funds to be paid over.

SEC. 2. It is hereby made the duty of said Houghton to pay out said funds to the several school districts of said township in the same manner that it would have been the duty of said Holden as treasurer as aforesaid to have paid the same, had he lived and continued in office as such treasurer.

Emergency.

SEC. 3. Inasmuch as there is now due to several persons in said township sums of money for teaching schools, and for fuel and for other ordinary expenses of schools, which said sums of money ought, in justice to such claimants, to be paid without delay, it is therefore hereby declared that an emergency exists requiring the immediate taking effect of this act, and the same is hereby declared to be in force from and after its passage.

CHAPTER 109.

AN ACT supplemental to an act entitled "an act to regulate the sale of the swamp lands donated by the United States to the State of Indiana, and to provide for the draining and reclaiming thereof in accordance with the condition of said grant. This act to regulate the title of all those who purchased swamp land of the United States after the date of the donation and before the selection of the swamp lands, and to enable purchasers to purchase forty acre tracts, and to grant pre-emptions in certain cases to occupiers of the swamp lands.

[APPROVED MARCH 4, 1853.]

Persons making improvements may enter lands.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all persons having improvements on any of the swamp lands prior to the first day of January, 1853, shall have the right to enter the same

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at private entry for the sum of one dollar and twenty-five cents the acre, before the offering of the same at public sale, by fully complying with the fortieth section of the act to which this act is supplemental: *And provided*, that improvements shall mean a house thereon, or house and land under fence, or land under fence alone.

Legal subdivisions may be entered.

SEC. 2. The auditor of each county shall also allow any person to enter a legal subdivision of forty acres or less, where the same constitutes one tract, according to the survey and plat of the United States surveyor.

Provisions in relation to swamp lands bought of the U. S. between the date of the donation act of Congress and the day of selection.

SEC. 3. Each and every person who shall have bought of the United States any of the swamp lands between the date of the act of Congress donating said lands, and the day of selection thereof by the State, and who shall fail to receive a title therefor from the United States, shall be entitled to enter the same at the price of one dollar and twenty-five cents the acre by complying with the provisions of the forty-seventh section of the act to which this act is supplemental: *Provided, also*, that if any person who may have so purchased lands, shall not receive notice before the public sale of swamp land by the auditor, that the title will not be made to him by the United States, he may file with the auditor of the county in which the land entered is situated, a notice to that effect, specifying in such notice the land so having been entered, in which case the auditor shall withhold the same from sale, until the party shall have time to comply with the requisitions of the law in such case.

Emergency—publication.

SEC. 4. Whereas, it is important that this act should take effect and be in force before the sale of the swamp lands under the act to which this is supplemental; and whereas, it is very doubtful whether the laws of this session will be published and circulated in time to effect that object, it is therefore declared that an emergency exists, and that this act shall take effect and be in force from and after its passage and publication in the State Sentinel and Indiana Journal.

Duty of Secretary of State.

SEC. 5. It shall be the duty of the Secretary of State to forward to each county auditor of the State one copy each, of the State Sentinel and Indiana Journal, which shall be filed by the auditors in their offices and preserved by them.*

* Published in the Indiana State Sentinel March 14, 1853; and in the Indiana State Journal March 15, 1853.

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CHAPTER 110.

AN ACT requiring county Commissioners to perform certain duties in relation to the refunding of taxes wrongfully assessed and collected.

[APPROVED MARCH 2, 1853.]

County commissioners may order tax for county purposes to be refunded.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases where any person or persons, body politic or corporate shall appear before the board of commissioners of any county in this State, and establish by proper proof that such person, body politic or corporate has paid any amount of taxes which were wrongfully assessed against such person, body politic or corporate in such county, it shall be the duty of said board to order the amount so proved to have been paid, to be refunded to said payer from the county treasury so far as the same was assessed and paid for county taxes.

County commissioners may certify wrongful assessment for State purposes to Auditor of State, who may audit the same as a claim against State treasury.

SEC. 2. In all cases where a portion of the amount so wrongfully assessed and paid shall have been for State purposes, and shall have been paid into the State Treasury it shall be the duty of the said board of commissioners to certify the amount so proven to have been wrongfully paid to the Auditor of State, under the seal of said board of commissioners, and the Auditor of State shall thereupon audit the same as a claim against the treasury, and the Treasurer of State shall pay the same out of any moneys not otherwise appropriated.

Appeal in case of refusal.

SEC. 3. If any board of county commissioners refuse to hear the proofs offered by any person, body politic or corporate, complaining or offering to complain before them that he or they have been wrongfully assessed, the person or body politic or corporate so offering to complain shall have the same right of appeal from the decision of said board so refusing to hear such complaint that they would have in other cases.

CHAPTER 111.

AN ACT for the better regulation of telegraph companies, and legalizing their former acts.

[APPROVED FEBRUARY 1, 1853.]

Power to lease and attach to other telegraph lines.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all telegraph companies

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organized under the laws of this State shall have power to lease or attach to them other telegraph lines by lease or purchase.

May reduce capital.

SEC. 2. Any of said companies, through its board of directors, with the consent of a majority of the stockholders, shall have power to reduce its capital stock to any amount not below the actual cost of construction.

Officers and directors to be elected from stockholders in this or adjoining States.

SEC. 3. The officers and directors of said telegraph companies shall hereafter be elected from among the stockholders residing in this State, or at some point in any of the adjoining States where any of said companies shall have a telegraph station.

Irregularities legalized.

SEC. 4. All irregularities or defects in the organization of said telegraph companies are hereby legalized.

Proviso.

Provided, that this section shall not be construed in such a manner as to prejudice the rights of citizens of this State, nor in such a manner as to allow such companies to institute any suit or suits against the inhabitants of this State, which they are not now allowed to institute by the laws of this State.

Emergency.

SEC. 5. It is hereby declared that an emergency exists requiring the enactment hereby made, and that this act shall be in force from and after its passage.

CHAPTER 112.

AN ACT to amend an act entitled "an act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and declaring their duties," approved June 11, 1852.

[APPROVED FEBRUARY 7, 1853.]

No debt to or from a corporation to be impaired.

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That section 58 of an act entitled "an act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and declaring their duties," approved June 11, 1852, be, and the same is hereby so amended as to read as follows, to wit: No debt or liability due to or from any incorporated town shall be impaired by reason of any such town being brought within the provisions of this act, and becoming incorporated under it.

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CHAPTER 113.

AN ACT to amend the fifth section of an act entitled "an act for the more uniform mode of doing township business," approved May 6th, 1852, which section reads as follows, to wit: "The qualified voters in each township shall, on the first Monday in April, annually, at the usual place of holding elections in such township, elect three trustees, a clerk and treasurer, who shall severally hold their offices for one year, and until their successors are elected and qualified, and before entering upon the duties of their respective offices, they shall take an oath or affirmation, before a justice of the peace of the proper township, for the faithful performance of their respective offices.

[APPROVED MARCH 1, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That said section be amended to read as follows: The qualified voters in each township shall, on the first Monday in April, at the usual place of holding elections, in such township, elect three trustees, one of whom shall serve for the term of one year, one for the term of two years, and one for the term of three years; the duration of the term of each to be determined by lot, on the day of election, by the inspector and judges thereof, and that annually thereafter, one trustee shall be elected, whose term of service shall be three years, and until his successor is elected and qualified; and a clerk and treasurer shall also at the same time and place be elected, who shall severally hold their offices for the term of one year, and until their successors are elected and qualified; and before entering upon the duties of their respective offices, they shall take an oath or affirmation before a justice of the peace of the proper township, for the faithful performance of their respective duties.

Voters to elect trustees — term of office.

Shall take an oath.

SEC. 2. This act is hereby declared to be one of emergency, and to be in force from and after its passage.

Emergency.

SEC. 3. All laws or parts of laws conflicting with the above act are hereby repealed.

Repeal.

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CHAPTER 114.

AN ACT to amend an act entitled "an act for a more uniform mode of doing Township Business," approved May 6, 1852.

[APPROVED FEBRUARY 24, 1853.]

Compensation of township clerk and treasurer.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 19 of an act entitled "an act for a more uniform mode of doing township business," approved May 6, 1852, be amended to read as follows: The clerk and treasurer shall receive such compensation for their services as the trustees shall allow, and each of such trustees shall receive as a compensation, the sum of one dollar per day, while actually engaged as such, and all allowances shall be entered upon the township record, which record shall always be open for public inspection.

Emergency.

SEC. 2. As an emergency exists for the immediate taking effect of this act, it is declared to be in force from and after its passage and publication in the Indiana State Journal and Indiana State Sentinel.*

* Published in the Indiana State Sentinel March 1, 1853; and in the Indiana State Journal March 5, 1853.

CHAPTER 115.

AN ACT authorizing the township trustees, in the several townships in this State, to administer oaths.

[APPROVED MARCH 1, 1853.]

Trustees may administer oaths.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the trustees of the several townships in this State shall have power to administer all oaths connected with their respective duties as township trustees. *Provided, however*, that nothing contained in this act shall be construed to prohibit the clerk of said board of trustees from administering oaths connected with the business of said board.

Proviso.

Emergency.

SEC. 2. This act is hereby declared one of emergency, and to be in force from and after its passage.

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CHAPTER 116.

AN ACT to amend an act entitled "an act prescribing the duties of Treasurer of State," approved May 20th, 1852.

[APPROVED FEBRUARY 22, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section 5 of an act entitled "an act prescribing the duties of Treasurer of State," approved May 20, 1852, be and the same is hereby amended to read as follows, to wit: When any debtor shall pay any sum of money into the State Treasury, the Treasurer, on receiving the same, shall make out a receipt for the amount and deliver the same to the Auditor of State, who shall give the Treasurer a receipt therefor; and said Treasurer shall deliver the Auditor's said receipt to the person paying the money therein specified.

Duty of Treasurer and Auditor of State to receipt.

CHAPTER 117.

AN ACT to amend an act entitled "an act in relation to County Treasurers," approved June 4, 1852.

[APPROVED FEBRUARY 7, 1853.]

Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That section five of an act entitled "an act in relation to county treasurers," approved June 4th, 1852, be, and the same is hereby amended to read as follows, to wit: The treasurer shall keep his office of his county, and shall keep the same open for the transaction of business during business hours; and he and his deputies are authorized to administer all oaths necessary in the discharge of his official duties.

When to keep office open.

May administer oaths.

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CHAPTER 118.

AN ACT requiring County Treasurers to keep their offices in Fire Proof Buildings, where the same have been provided by the County Board.

[APPROVED JANUARY 27, 1853.]

To keep office in fire-proof building.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That county treasurers shall keep their offices in fire proof buildings, where the same have been provided by the Board of county commissioners.

Penalty.

SEC. 2. If any county treasurer shall keep his office, or the books and papers belonging thereto in any other building than such fire-proof office, after the completion of the same, he shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars.

CHAPTER 119.

AN ACT to repeal section 3, of an act entitled "an act touching vacancies in office, and filling the same by appointment," approved May 13, 1852.

[APPROVED FEBRUARY 22, 1853.]

Act repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section 3 of an act entitled "an act touching vacancies in office and filling the same by appointment," approved May 13, 1852, be, and the same is hereby repealed.

Emergency.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act; it shall, therefore, be in force from and after its passage and publication in the Indiana State Sentinel, and Indiana State Journal.*

*Published in the Indiana State Sentinel February 25, 1853; and in the Indiana State Journal March 5, 1853.

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CHAPTER 120.

AN ACT to amend an act entitled "an act to authorize the formation of Voluntary Associations," approved May 13, 1852.

[APPROVED FEBRUARY 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 1st of an act entitled "an act to authorize the formation of voluntary associations," approved May 13, 1852, be, and the same is hereby so amended as to read as follows: That any persons may voluntarily associate themselves together for either of the following purposes:

Purposes for which associations may be formed.

First. To establish and maintain horticultural, literary and scientific associations.

Second. To organize military and fire companies.

Third. To provide suitable grounds for the burial of the dead, for the public walks or commons, and to ornament the same with shade trees and shrubbery.

Fourth. To plant, cultivate and preserve shade trees in the public squares and along the streets of towns.

Fifth. To organize Masonic and Odd Fellows' Lodges subordinate to their several Grand Lodges, and also Divisions of the Sons and Daughters of Temperance, and other charitable associations and orders.

Sixth. To erect and maintain suitable buildings for public meetings.

Seventh. To import horses, cattle, sheep, hogs and other animals for agricultural purposes.

Eighth. To purchase and hold real estate for the purpose of erecting and maintaining in repair buildings thereon for rent or occupancy by the members thereof.

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CHAPTER 121.

AN ACT to authorize Voluntary Associations to hold and convey property.

[APPROVED FEBRUARY 9, 1853.]

Power to hold and convey property in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all persons forming voluntary associations under the laws of this State shall have power to purchase, hold and convey such property, whether real or personal, as may be necessary for the specific purposes of such association, subject to the limitation contained in section 5 of chapter 116, volume 1, of Revised Statutes of 1852.

CHAPTER 122.

AN ACT to legalize certain State Wabash and Erie canal Certificates.

[APPROVED JANUARY 25, 1853.]

Certificates to be obligatory upon the State.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the certificates either State, Wabash and Erie canal, with the seal of the State upon the same, and signed by D. Maguire, Auditor, and Samuel Hannah, Treasurer, or signed by E. W. H. Ellis, Auditor, and James P. Drake, Treasurer, or their successors in office, and countersigned by the Agent of State, shall be obligatory upon this State as if the same had the signatures of the Auditor and Treasurer of State in office at the respective dates of such certificates.

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CHAPTER 123.

AN ACT to amend section three of an act entitled "an act for the regulation of Weights and Measures," approved June 9, 1852.

[APPROVED MARCH 1, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section three of an act for the regulation of weights and measures, be, and the same is hereby amended to read as follows, to wit: Weight of bushel—articles.

SEC. 2. Sixty pounds of merchantable wheat, (aviordupois weight) shall be given and taken for a standard bushel. Of shelled corn, fifty-six pounds. Of corn on the cob, sixty-eight pounds. Of buckwheat, fifty pounds. Of beans, sixty pounds. Of potatoes, sixty pounds. Of clover seed, sixty pounds. Hemp seed, forty-four pounds. Blue grass seed, fourteen pounds. Castor beans, forty-six pounds. Dried peaches, thirty-three pounds. Dried apples, twenty-five pounds. Onions, fifty-seven pounds. Salt, fifty pounds. Mineral coal, seventy pounds. Timothy seed, forty-five pounds. Rye, fifty-six pounds. Oats, thirty-two pounds. Of flax seed, fifty-six pounds. Of barley, forty-eight pounds. Of corn meal, fifty pounds.

CHAPTER 124.

AN ACT to amend section 36 of an act entitled "an act prescribing who may make a will, the effect thereof, what may be devised, regulating the revocation, admission to probate, and contest thereof," approved May 31st, 1852.

[APPROVED MARCH 4, 1853.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 36 of an act entitled "an act prescribing who may make a will, the effect thereof, what may be devised, regulating the revocation, admission to probate and contest thereof," approved May 31, 1852, be, and the same is hereby amended to read as follows: Who may produce will.

SEC. 36. Such will or copy, and the probate thereof, may be produced by any person interested therein, to

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the clerk of the court of common pleas of the county in which there is any estate on which the will may operate; and if said clerk shall be satisfied that the instrument ought to be allowed, as the last will of the deceased, he shall file and record the same, and thereupon such will shall have the same effect as if it had been originally admitted to probate, and recorded in this State.

Filing and recording.

CHAPTER 125.

AN ACT to amend the 17th section of an act entitled "an act prescribing who may make a will, and the effect thereof, what may be devised, and regulating the revocation, admission to probate, and contest thereof.

[Approved March 2, 1853.]

Title of purchaser not impaired unless will be proven and recorded within two years.

Section 1. *Be it enacted by the General Assembly of the State of Indiana*, That the 17th section of an act entitled "an act prescribing who may make a will and the effect thereof, what may be devised, and regulating the revocation, admission to probate and contest thereof," be amended to read as follows: The title of any lands or interest therein purchased in good faith, and for a valuable consideration from the heirs at law of any person who shall have died seized of real estate, shall not be impaired by virtue of any devise made by such person, of the real estate so purchased, unless the will or codicil containing such devise shall have been fully proved and recorded in the office of the clerk of the court having jurisdiction, within two years after the death of the testator, in cases where such will is not contested; or within two years after the final adjudication of any contested will; except,

Exceptions.

First. Where the devisee shall have been under legal disability at the death of such testator; or,

Second. Where it shall appear that the existence of such will or codicil shall have been concealed from, or unknown to such devisee.

When limitation to commence.

In which cases the limitation specified in this section shall not commence until after the expiration of one year from the time such disability shall have been removed, or such will or codicil shall have come into the

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control of the devisee or his representative, or have been deposited in the clerk's office of the proper court of common pleas: *Provided*, that in all cases where testators have died at least two years and not more than five years before the taking effect of this act, the devisees shall have one year after the taking effect thereof in which to comply with the provisions hereof. Proviso.

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JOINT RESOLUTIONS

OF THE

GENERAL ASSEMBLY OF INDIANA.

CHAPTER 1.

A JOINT RESOLUTION in reference to obtaining permission of the State of Illinois to open the falls and straighten the channel of the Kankakee river above said falls.

[APPROVED JANUARY 21, 1853.]

Be it resolved by the General Assembly of the State of Indiana, That his Excellency the Governor, be authorized to open a correspondence with the Governor of the State of Illinois, requesting the passage of a bill by the Legislature of said State, granting to the State of Indiana, or such persons as she or her agents may designate, the privilege of opening the falls of the Kankakee river, and straightening the channel of said river in Illinois above said falls.

CHAPTER 2.

A JOINT RESOLUTION to instruct our Senators and request our Representatives to procure the passage of a law by Congress to grant lands to actual settlers.

[APPROVED JANUARY 25, 1853.]

Be it resolved by the General Assembly of the State of Indiana: SECTION 1. That our Senators are instructed, and our Representatives are requested to procure the passage of a law by Congress to give to each

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actual settler on the public lands one hundred and sixty acres, who may reside on the same five years.

SEC. 2. That the Governor make out and transmit a copy of this joint resolution to each of our Senators and Representatives in Congress.

CHAPTER 3.

A JOINT RESOLUTION asking Congress to donate all the unsold lands in the State of Indiana for common school purposes.

[APPROVED FEBRUARY 1, 1853.]

WHEREAS, The people of the State of Indiana cannot but be deeply interested in any disposition which the General Government may make of the public domain in said State: AND WHEREAS, it is believed that all the citizens are equally interested in its proper disposal: AND WHEREAS, many believe that the General Government ought not to donate said lands, or any part of the same to the building up of individual enterprise, or to any company now or hereafter to be organized for the construction of railroads in this State: therefore,

Be it resolved by the General Assembly of the State of Indiana, That our Senators be instructed, and our Representatives be requested to procure the passage of a law of Congress granting all the unsold lands in the several land districts of this State to the State of Indiana for the use of the common schools therein.

And be it further resolved, That the Governor be requested to transmit to each of our Senators and Representatives in Congress a copy of this resolution.

CHAPTER 4.

A JOINT RESOLUTION instructing our Senators and requesting our Representatives in Congress to use their influence to procure the passage of an act for the relief of John Linsey and James Elliot.

[APPROVED FEBRUARY 7, 1853.]

WHEREAS, it is represented to this General Assembly by divers of the good citizens of Starke county and elsewhere, that John Linsey and James Elliott, of the

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aforenamed county, have rendered important services to the country in the Indian wars; that the former served two years as United States ranger, guarding the frontiers of Indiana and Illinois, and that subsequently he served seven years as blacksmith of the United States among the Indians; and that the latter served during the war of 1812, and was engaged in the battle of Tippecanoe.

AND WHEREAS, it is further represented to us that both said Linsey and Elliott are now old and infirm, and in circumstances of great pecuniary distress, the latter encumbered with a family of sixteen children.

AND WHEREAS, it seems to us right and proper, in view of the important services of these brave men, their present age, infirmity, and poverty, that they should be made the special objects of protection and fostering care on the part of the General Government by special act of Congress enacted for their relief. Therefore,

Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed, and our Representatives requested to use their influence to procure the passage of an act for the relief of the said John Linsey and James Elliott, and for granting them pensions.

Resolved further, That his Excellency, the Governor be requested to transmit copies of the foregoing preamble and resolution to each of our Senators and Representatives in Congress.

CHAPTER 5.

A JOINT RESOLUTION relating to the construction of a canal around the Falls of Ohio.

[APPROVED FEBRUARY 9, 1853.]

Be it resolved by the General Assembly of the State of Indiana, That our Senators be instructed and our Representatives requested to use their influence to procure the passage of a law appropriating a sufficient sum to construct a canal around the Falls of Ohio on the Indiana side of said river.

And be it further resolved, That his Excellency, the

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Governor, be requested to forward a copy of this joint resolution to each of our Senators and Representatives in Congress at his earliest convenience.

CHAPTER 6.

A JOINT RESOLUTION relative to the Michigan City Harbor.

[APPROVED FEBRUARY 9, 1853.]

WHEREAS, The Harbor at Michigan City, which does not afford a safe and easy access to vessels of the large class, cannot be *permanently* improved without an expenditure of a much larger sum of money than has at any one time been appropriated to it:

AND WHEREAS, The said Michigan City is a port of entry and the only sea-port town in the State of Indiana:

AND WHEREAS, The said State of Indiana has received in appropriations for harbor improvements but a small pittance as compared with appropriations made for similar purposes in many of her sister States: therefore,

Be it resolved by the General Assembly of the State of Indiana, That his Excellency, the Governor, be authorized to instruct our Senators and request our Representatives in Congress to use their best exertions to procure, at an early day, a liberal appropriation for the improvement of the Michigan City Harbor.

CHAPTER 7.

A JOINT RESOLUTION in regard to a right of way.

[APPROVED FEBRUARY 10, 1853.]

Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed and our Representatives requested to use their exertions to procure the passage of an act of Congress releasing to the New Albany and Salem Rail Road Company a right of way over any of the public lands where said

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company may have located, surveyed, or constructed their road, between Lafayette and Michigan City, and from thence to the Illinois State line; and also releasing to any railroad company, whether incorporated by special charter, or organized under a general law, a right of way over any of the public lands where such company shall construct its road.

Be it further resolved by the authority aforesaid, That his Excellency the Governor be requested to cause a copy of this joint resolution to be transmitted to each of our Senators and Representatives in Congress.

CHAPTER 8.

A JOINT RESOLUTION asking indemnity from the Congress of the United States for the failure of the title to a portion of the lands heretofore granted by Congress to the State of Indiana, for the use of a Seminary of learning.

[APPROVED FEBRUARY 10, 1853.]

WHEREAS, the Congress of the United States, by an act approved April 19, 1816, entitled "an act to enable the people of Indiana Territory to form a State government and constitution, and for the admission of such State into the Union on equal footing with the original States," did, among the propositions offered to the convention of the said territory, "for their free acceptance or rejection," all of which, if accepted, were by said act, declared to be "obligatory on the United States," grant to the State "one entire township of land for the use of a Seminary of learning, to be selected by the President of the United States, in addition to one before reserved for the purpose, and vest the same in the Legislature of the State, for the use of such seminary."

AND WHEREAS, the convention, by an ordinance made on the 10th day of June, 1816, and declared to be irrevocable without the consent f the United States, did accept the propositions made by Congress, and, as a consideration for the several grants thereby made to the State, did declare that every tract of land sold by the United States and lying within the State, should be exempt from any tax laid by authority of the State for the term of five years from the day of

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sale, which condition the State, on its part, has faithfully performed:

And Whereas, the legislature in carrying out the provisions of the proposition above referred to, by an act passed January 22, 1822, did establish a seminary of learning, now known as the Indiana State University, and which at this time embraces a Law Department, a Department of moral and Intellectual Science, a Department of Natural Philosophy and Chemistry, a Department of pure Mathematics, a Department of civil Engineering, a Department of Languages, and a Department for training teachers, and which, for the past twelve years, has had in attendance an average number of over one hundred and seventy-five students, from this State and other States south and west:

And Whereas, by a decision of the Supreme Court of the United States, made January 25, 1853, the title to a portion of the lands, granted by Congress for the use of a seminary of learning, as above specified, has failed, whereby the State will, so soon as the decree of the court shall be carried into effect, lose a large portion of the fund which constitutes the endowment of the State University; and thus an institution of learning which has existed for more than a quarter of a century will be virtually destroyed.

And Whereas, also congress has by an act approved July 12, 1852, granted to the State four thousand one hundred and sixty-six acres of land, in order to make up a deficiency in that number of acres in one of the townships granted for the use of a Seminary, fully recognized the obligation of the United States to the State of Indiana, to make good any failure in the lands granted for such purpose:

Therefore, be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed, and our Representatives be requested to urge the immediate passage of an act making to the State of Indiana, for the use of the State University, a grant from any unsold lands belonging to the General Government, and subject to private entry, of such number of acres of land as, rated at the Government price, shall fully indemnify the State for the loss sustained in consequence of the decision of the Supreme Court of the United States, together with the costs of defending the title of the State to the lands above specified.

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CHAPTER 9.

A JOINT RESOLUTION on the subject of a Ship Canal around the Falls of Niagara, connecting Lake Ontario and Lake Erie.

[APPROVED FEBRUARY 14, 1853.]

WHEREAS, Indiana is deeply interested in the commerce of the Lakes, in the settlement, development and prosperity of the States bordering upon them, and in the improvements necessary to render their navigation safe, cheap and convenient to the citizens of the States: AND WHEREAS, we are unwilling that the citizens of the United States should be longer tributary to a foreign government for the use of the Welland canal constructed on the Canada side of the Falls of Niagara: AND WHEREAS, in common with Wisconsin, Illinois, Michigan, Ohio, Pennsylvania and New York, bordering upon the great Lakes, we feel that a ship canal around the Falls of Niagara, is a work of national importance, one that will open a market for the products of our soil:

Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed, and our Representatives requested, to use their influence in procuring the passage of a bill which shall insure the speedy construction of a ship canal around the Falls of Niagara, connecting Lake Erie and Ontario.

Be it further resolved, That his Excellency, the Governor, be requested to transmit copies of this joint resolution to each of our members in Congress, at the earliest practicable period.

CHAPTER 10.

A JOINT RESOLUTION relative to granting Pensions to Widows and Orphans.

[APPROVED FEBRUARY 24, 1853.]

WHEREAS, The pension granted to widows and orphans where their husbands and fathers have died in consequence of wounds received or from disease contracted while in the line of duty during the late war with

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Mexico, by virtue of the act of Congress approved July 21, 1848, will cease upon the 21st day of July, 1853, whereby many of said widows and orphans will be in a state of destitution and want in case the provisions of said act are not extended:

AND WHEREAS, The support of the widows and orphans of those who gave their lives to their country in sustaining the honor of its flag and in support of its dearest interests, is an imperative obligation upon the American people: therefore,

Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed and our Representatives requested to use their best exertions to procure the passage of an act of Congress continuing in force for five years from and after the 21st day of July, 1853, the provisions of an act of Congress approved July 21, 1848, entitled "an act amending the act entitled an act granting half pay to widows and orphans when their husbands and fathers have died of wounds received in the military service of the United States, in cases of deceased officers and soldiers of the militia and volunteers," passed July 4, 1836.

Resolved, That the Governor be requested to transmit a copy of the above resolution to each of our Senators and Representatives in Congress.

CHAPTER 11.

A JOINT RESOLUTION in regard to the Industrial Exhibitions to be held in New York in May next, and in New Orleans in February, 1854.

[APPROVED MARCH 4, 1853.]

WHEREAS, Several citizens of this State, impelled by a laudable desire to witness the exhibition of the perfection of the mechanic arts, and agricultural products of the world, and take with them specimens of the mineral ores, agricultural productions, mechanical arts, &c., of the State, at their own expense, and on their own responsibility, to attend the industrial exhibition of all nations to be held at New York in May next, and also the great Southwestern Industrial Fair, to be held at New Orleans in February, 1854.

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AND WHEREAS, It is believed that much benefit may result to citizens of this State by a portion of her citizens visiting said Fairs, and to enable such delegates to derive the greatest possible advantages from such visit: therefore,

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the Governor of this State be, and is hereby authorized to give such persons as he may deem proper, a certificate as delegate for the State of Indiana for each of said Fairs.

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STATE OF INDIANA,
OFFICE OF SECRETARY OF STATE. } SS:

I, NEHEMIAH HAYDEN, Secretary of State for the State aforesaid, certify that I have compared the foregoing with the enrolled acts and joint resolutions from which they were taken, now on file in my office, and found them correctly printed. The words designated [thus,] were inserted by me in order to aid the sense.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the State, at the city of Indianapolis, the 7th day of April, A. D. 1853.

[SEAL.]

N. HAYDEN,
Secretary of State.

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EXTRACTS

FROM THE

REPORT OF THE AUDITOR OF STATE,

FOR THE YEAR ENDING OCTOBER 31, 1852.

AUDITOR OF STATE'S OFFICE,
Indianapolis, December 15, 1852.

To the General Assembly:

In compliance with the law requiring the Auditor of State "to exhibit to the General Assembly, at its annual meeting, a complete statement of the revenues, taxables, funds, resources, incomes, and property of the State," as well as "the expenditures of the preceding fiscal year," the following statement is respectfully submitted, showing the operations of the Treasury department for the fiscal year ending October 31st, 1852, and the condition of the finances at said date.

The several items are presented under the following heads:

I. *A General Statement of the Receipts and Expenditures of the State during the Fiscal Year.*

II. *A Statement of the several Appropriations, and of the amount expended, balances unexpended, and Appropriations overdrawn.*

III. *The condition of the State Debt, Foreign and Domestic.*

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IV. *A Statement in detail of the Receipts and Expenditures of the various Trust Funds, and the Funds appropriated for the Benevolent Institutions.*

V. *Internal Improvements.*

VI. *The Common School Fund.*

VII. *Free Banking operations.*

VIII. *General Remarks.*

IX. *Appendix.*

I.—A General Statement of the Receipts and Expenditures during the Financial Year, from November 1, 1851, to October 31, 1852.

RECEIPTS.

Balance remaining in the Treasury, at the close of the last fiscal year, October 31, 1852 ..... $181,260 22

The following sums were received during the financial year which closed October 31, 1852, to wit:

REVENUE.

On account of revenue of 1843	$472 54
On account of delinquent revenue of 1850,	52,412 40
On account of revenue of 1851	604,121 05
On account of delinquent revenue of 1851,	263 48
On account of revenue of 1852	829 55

UNIVERSITY FUND.

On account of loans refunded	6,575 32
On account of interest on loans	5,939 15
On account of sales of land, principal	1,923 27
On account of sales of land, interest	936 22
On account of damages on sales of land ..	68 06
On account of costs of advertising refunded,	86 14

BANK TAX FUND.

On account of loans refunded	1,140 00
On account of interest on loans	639 68
On account of State Bank assessment	665 31

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On account of costs of advertising refunded,	14 00
On account of damages	25 00

SALINE FUND.

On account of loans refunded	4,244 21
On account of interest on loans	1,657 89
On account of costs of advertising refunded,	29 44

SURPLUS REVENUE FUND.

On account of loans refunded	980 35
On account of interest on loans	429 36
On account of costs of advertising refunded,	13 00

CONGRESSIONAL TOWNSHIP FUND.

On account of loans refunded	100 00
On account of interest on loans	71 96

TREASURY FUND.

On account of interest on loans	779 29
On acccount of cost of advertising refunded,	6 00
On account of damages on sales of lands	30 71

COMMON SCHOOL FUND.

On account of profits of State Bank	73,839 74

INDIANAPOLIS LOTS.

On account of sales of lots, principal	87 50
On account of sales of lots, interest	3 05

HOSPITAL FOR THE INSANE.

On account of proceeds of farm	26 20

DEAF AND DUMB ASYLUM.

On account of proceeds of farm	35 55

NORTHERN DIVISION OF CENTRAL CANAL.

On account of water rents	173 39

REVISED STATUTES.

On account of sales of	14 25

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WABASH AND ERIE CANAL.

On account of tolls and water rents	198,910 96
On account of canal lands in Vincennes district	129,318 80
On account of canal lands east and west of Tippecanoe	131,267 06
On account of premiums and exchange	905 42
On account of subscription by bond-holders	50 00

SUSPENDED DEBT.

On account of suspended debt	2,500 00

SWAMP LANDS.

On account of sales of swamp lands	60,656 76

NATIONAL ROAD.

On account of sale of national road	573 75

MISCELLANEOUS.

On account of miscellaneous items	5 00
On account of estates without heirs	231 97
On account of insurance tax	12 26
Total amount of receipts from November 1, 1851, to October 31, 1852, inclusive	$1,283,064 84
Add balance in treasury, Nov. 1, 1851	181,260 22
Grand total of receipts	$1,464,325 06

EXPENDITURES.

There were audited during the financial year ending October 31, 1852, the following sums, to wit:

ORDINARY EXPENSES.

On account of supreme and circuit judges,	$14,040 70
On account of probate judges	4,544 00
On account of prosecuting attorneys	1,853 83
On account of State House	1,009 26
On account of State Prison	4,770 18

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On account of public printing, paper and binding		14,888 11
On account of specific appropriations		1,396 75
On account of executive department		4,931 95
On account of stationery and fuel		4,191 90
On account of State Library		351 27
On account of militia		258 10
On account of Legislative expenses, viz:		
Per diem and mileage of members	$80,026 66	
Pay of clerks	11,880 00	
Pay of doorkeepers and woodmen	6,432 00	
Newspapers for members	6,202 59	
Miscellaneous expenditures,	1,910 40—	106,451 65
On account of Governor's House		598 49
On account of Governor's Circle		9 54
On account of distributing laws and journals		290 26
On account of contingent fund, viz:		
Postage for executive departments	$322 67	
Printing and records	53 68	
Serving requisitions	173 33	
Rewards for fugitives	50 00	
Costs in circuit and supreme courts	33 31	
Transportation	14 25	
Stationery	3 45	
Sundries	76 00—	726 69

PUBLIC DEBT.

On account of interest for January and July,	199,784 00
On account of salary of Agent, Col. May,	2,500 00
On account of expenses of agency	658 76

TREASURY NOTES.

On account of six per cents. cancelled	27,535 00
On account of interest on same	17,027 41
On account of five per cents. cancelled	63,925 00
On account of interest on same	27,466 59
On account of quarter per cents. cancelled,	735 00
On account of interest on same	14 70

SWAMP LANDS.

On account of incidental expenses of	4,064 24

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UNIVERSITY FUND.

On account of loan	11,914 57
On account of interest refunded	31 43
On account of expenses of fund	920 01
On account of professors' salaries	3,496 17
On account of costs of advertising	9 25

SALINE FUND.

On account of distribution of fund	1,380 86
On account of loans	1,280 00
On account of damages on sales of land	133 15
On account of expenses of fund	308 37
On account of costs of advertising	4 00

BANK TAX FUND.

On account of distribution of fund	4,142 58
On account of costs of advertising	8 00
On account of expenses of fund	80 16

SURPLUS REVENUE FUND.

On account of distribution of fund	794 40
On account of loans	200 00
On account of interest refunded	13 50
On account of expenses of fund	110 51

CONGRESSIONAL TOWNSHIP FUND.

On account of distribution of fund	43 72
On account of expenses of fund	7 28

TREASURY FUND.

On account of expenses of fund	110 87

CENTRAL CANAL—NORTHERN DIVISION.

On account of incidental expenses	30 00

BENEVOLENT INSTITUTIONS.

On account of Deaf and Dumb Asylum	44,162 34
On account of Blind Asylum	32,493 95
On account of Hospital for the Insane	26,903 92
On account of Superintendent of Insane Hospital	1,500 00

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MISCELLANEOUS.

On account of new State Prison	113 10
On account of revenue refunded	995 95
On account of Constitutional Convention,	2,597 25
On account of Carter's Reports	1,500 00
On account of State Board of Agriculture,	2,929 86
On account of law reform commission	2,787 70
On account of equalization	917 00
On account of free banking	36 00
On account of national road	5 00

WABASH AND ERIE CANAL BY TRUSTEES.

On account of general expenses of Trustees	15,110 58
On account of expenses of land office, Vincennes district	1,841 79
On account of expenses of land office, east and west of Tippecanoe	1,995 41
On account of ordinary repairs	44,988 57
On account of extraordinary repairs	12,727 13
On account of surveys and locating	12,146 49
On account of superintendence	5,390 24
On account of expense of collection	6,196 47
On account of rebuilding bridges	2,842 87
On account of interest to bondholders	58,428 00
On account of subscription to Clinton draw bridge	8,000 00
On account of damages and water power	25,732 30
On account of construction, Terre Haute to Point Commerce	1,776 35
On account of construction, Point Commerce to Newbury	7,280 51
On account of construction, Newbury to Maysville	11,375 78
On account of construction, Maysville to Petersburgh	69,778 81
On account of construction, Petersburgh to Evansville	130,000 00
Whole amount audited during financial year 1852, warrants No. 6501 to 7716, inclusive	1,061,605 58
Add balance in treasury, Oct. 31, 1852	402,719 48
Grand total	$1,464,325 06

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RECAPITULATION.

Balance in treasury, October 31, 1851	$181,260 22
Receipts for 1852	1,283,064 84
Total	$1,464,325 06
Deduct warrants as above	1,061,605 58
Balance in treasury, October 31, 1852	$402,719 48

VIII.---GENERAL REMARKS.

A reference to the general statement of receipts and expenditures, will show the balance in the Treasury at the close of the fiscal year to have been the sum of $402,719,48

Of this sum there was in State Script on hand for cancellation	125,640 40
Wabash and Erie Canal Funds	191,238 99
Undrawn appropriations for Benevolent Institutions	67,862 00
Trust Funds, about	14,000 00
Total	$398,741 39

Leaving a balance in the Treasury, applicable to general purposes, on 31st October, 1852, of $3,978 09.

This balance is less than was estimated in the last report from this office, in the sum of $121,965 11, owing to the increased amount of Treasury notes received at the State Treasury, and the extraordinary Legislative, and other expenses, consequent upon a revision of the statutes.

The ordinary expenses for the ensuing two years, for which appropriations will be required from the present Legislature, may be estimated as follows:

ESTIMATED EXPENDITURES FOR 1853.

On account of the Legislature	$35,000
On account of the Judiciary for current year,	15,000
Same for arrears of salaries	4,000
On account of the Executive officers	7,000
Same for arrears of salaries	3,000
On account of prosecuting attorneys	3,000
On account of State Prison	3,000

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On account of printing and binding Revised Statutes	25,000
On account of public printing and binding	10,000
On account of fuel and stationery, including Revised Statutes	10,000
On account of specific appropriations	2,000
On account of distribution of laws and statutes	800
On account of militia	300
On account of State Library	800
Same for arrears of salary	1,000
On account of State House	1,500
On account of Governor's House	300
On account of Governor's Circle	100
On account of contingent fund	1,500
On account of miscellaneous disbursements	1,700
Total	$125,000

This estimate, it will be seen, is much larger than usual, on account of several extraordinary items which must necessarily be audited within the fiscal year, some of which should have been properly included in the expenditures of former years. The aggregate of these items is not less than $40,000, which would reduce the real and proper expenditures of the year to $85,000.

ESTIMATED EXPENDITURES FOR 1854.

On account of the Judiciary	$16,000
On account of the Executive officers	7,000
On account of prosecuting attorneys	3,000
On account of State Prison	3,000
On account of public printing and binding	3,000
On account of fuel and stationery	3,000
On account of militia	300
On account of State Library	800
On account of State House	500
On account of Governor's House	500
On account of Governor's Circle	100
On account of contingent fund	1,500
On account of miscellaneous disbursements	1,300
Total	$40,000

In addition to these sums it will be necessary to provide for the Benevolent Institutions, and for the pay-

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ment of interest upon the public debt. As the law fails to require that estimates for the former should be returned to this office, it is impossible to ascertain the amount necessary for their support, except by reference to their annual reports. The interest to be paid upon the State debt will be not far from the following:

January interest, 1853	$101,000
July interest 1853	148,000
January interest, 1854	150,000
July interest 1854	152,000
January interest, 1855	154,000

The amount of State revenue assessed upon the duplicates of 1852, excepting in the counties of Wells, Spencer, Porter, Jennings and Hamilton, from which no reports have been received, is $504,400 29. The estimated assessment in the counties mentioned, will add to this amount about $20,000, making a total of not far from $525,000, of which sum, including collections of delinquents, there will be paid into the State Treasury some $500,000. Assuming the accounts to balance at the commencement of the fiscal year, we may estimate as follows:

Expenditures.

Ordinary expenses for the year 1853	$125,000
Interest on State Debt	249,000
Miscellaneous	15,000
Benevolent Institutions after exhausting former appropriations, say	50,000
Total	$439,000

Receipts.

Net revenue	$500,000
Revenue from State Bank	10,000
Miscellaneous	10,000
Total	$520,000

Leaving on the 31st of October, 1853, applicable, under Sec. 2, Art. X, of the Constitution, to the payment of the principal of the public debt, the sum of $81,000.

Should the same rate of taxation be continued for the ensuing year, the following estimate may be made:

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Expenditures.

Ordinary expenses for the year 1854	$4[illegible],000
Interest on State Debt	302,000
Miscellaneous	15,000
Benevolent Institutions	50,000
Total	$407,000

Receipts.

Net revenue	$520,000
Revenue from State Bank	10,000
Miscellaneous	10,000
Total	$540,000

Leaving applicable as above the sum of $133,000.

The total valuation of the real and personal property of the State for taxation in 1852, in all the counties except Spencer, Posey, Porter, Jennings and Hamilton is $220,842,200
Add valuation in said counties for 1851 9,166,989

Total valuation for 1852 ..... $230,009,189
Being an increase over 1851 of $19,035,446

The revenue act of 1851–2, provides for the immediate taxation of all lands purchased of the General Government, which alone will bring upon the duplicate of 1853, an addition of not less than half a million of acres. Add to this the increase of personal property, of improvements upon real estate, of railroad and banking capital, and the assessment of 1853 will show a total of not less than $250,000,000.

With such an exhibit—with the elements of wealth and substantial prosperity all about us—with our constantly increasing population, and accumulating resources, the question comes home to us whether this is not a most favorable period to commence in earnest the extinction of our State debt. Our domestic debt is entirely extinguished—our public works are no longer a burthen, our common schools are most munificently provided for under the new constitution, and we may therefore devote our whole energies as a State to this great consummation.

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The entire principal of the State debt becomes due in 1866, a period of thirteen years, within which time we have certainly the ability to discharge the larger portion of it. The recommendation is earnestly renewed, that an appropriation of not less than ten cents upon the hundred dollars valuation of taxable property be annually applied to this object—that it be collected in a separate column upon the duplicate, and that its diversion to any other object be most solemnly prohibited.

E. W. H. ELLIS,
Auditor of State.

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